

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 421

An Act to amend and reenact §§ 2.1-1.1, 2.1-1.3, 2.1-1.7, 2.1-20.4, 2.1-51.27, 2.1-51.40, 2.1-563.16, 2.1-563.17, 2.1-563.36, 2.1-563.37, 2.1-563.38, 2.1-563.40, 2.1-563.41, 9-6.14:4.1, 9-6.23, 9-6.25:1, 9-6.25:2, 9-145.53, 9-145.56, 9-253, 9-266.4, 9-361, and 42.1-80 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 5.11, consisting of sections numbered 2.1-51.44 through 2.1-51.50, and adding in Chapter 35.2 an article numbered 7.1, consisting of sections numbered 2.1-563.28:1, 2.1-563.28:2, and 2.1-563.28:3; and to repeal Article 7 of Chapter 35.2 (§§ 2.1-563.28 through 2.1-563.35) of Title 2.1 and Chapter 22.12 (§§ 9-145.50 and 9-145.51) of Title 9 of the Code of Virginia, all relating to the creation of the Secretary of Technology and the assignment of powers, duties, and agencies thereto.

[S 808]

Approved March 25, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.1, 2.1-1.3, 2.1-1.7, 2.1-20.4, 2.1-51.27, 2.1-51.40, 2.1-563.16, 2.1-563.17, 2.1-563.36, 2.1-563.37, 2.1-563.38, 2.1-563.40, 2.1-563.41, 9-6.14:4.1, 9-6.23, 9-6.25:1, 9-6.25:2, 9-145.53, 9-145.56, 9-253, 9-266.4, 9-361, and 42.1-80 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 5.11, consisting of sections numbered 2.1-51.44 through 2.1-51.50, and adding in Chapter 35.2 an article numbered 7.1, consisting of sections numbered 2.1-563.28:1, 2.1-563.28:2, and 2.1-563.28:3, as follows:

§ 2.1-1.1. Departments generally.

There shall be, in addition to such others as may be established by law, the following administrative departments of the state government:

Chesapeake Bay Local Assistance Department.

Department for the Aging.

Department for the Deaf and Hard-of-Hearing.

Department for Rights of Virginians With Disabilities.

Department for the Visually Handicapped.

Department of Accounts.

Department of Agriculture and Consumer Services.

Department of Alcoholic Beverage Control.

Department of Aviation.

Department of Business Assistance.

Department of Conservation and Recreation.

Department of Corporations.

Department of Correctional Education.

Department of Corrections.

Department of Criminal Justice Services.

Department of Education.

Department of Emergency Services.

Department of Employee Relations Counselors.

Department of Environmental Quality.

Department of Fire Programs.

Department of Forestry.

Department of Game and Inland Fisheries.

Department of General Services.

Department of Health.

Department of Health Professions.

Department of Historic Resources.

Department of Housing and Community Development.

Department of Information Technology.

Department of Juvenile Justice.

Department of Labor and Industry.

Department of Law.

Department of Medical Assistance Services.

Department of Mental Health, Mental Retardation and Substance Abuse Services.

Department of Military Affairs.

Department of Mines, Minerals and Energy.

Department of Minority Business Enterprise.
Department of Motor Vehicles.
Department of Personnel and Training.
Department of Planning and Budget.
Department of Professional and Occupational Regulation.
Department of Rail and Public Transportation.
Department of Rehabilitative Services.
Department of Social Services.
Department of State Police.
Department of Taxation.
Department of Technology Planning.
Department of Transportation.
Department of the Treasury.
Department of Veterans' Affairs.
Governor's Employment and Training Department.

§ 2.1-1.3. Entities subject to standard nomenclature.

The following independent administrative entities are subject to the standard nomenclature provisions of § 2.1-1.2:

Chesapeake Bay Local Assistance Department.
Department for the Aging.
Department for the Deaf and Hard-of-Hearing.
Department for Rights of Virginians With Disabilities.
Department for the Visually Handicapped.
Department of Accounts.
Department of Agriculture and Consumer Services.
Department of Alcoholic Beverage Control.
Department of Aviation.
Department of Business Assistance.
Department of Conservation and Recreation.
Department of Correctional Education.
Department of Corrections.
Department of Criminal Justice Services.
Department of Education.
Department of Emergency Services.
Department of Environmental Quality.
Department of Employee Relations Counselors.
Department of Fire Programs.
Department of Forestry.
Department of Game and Inland Fisheries.
Department of General Services.
Department of Health.
Department of Health Professions.
Department of Historic Resources.
Department of Housing and Community Development.
Department of Information Technology.
Department of Juvenile Justice.
Department of Labor and Industry.
Department of Medical Assistance Services.
Department of Mental Health, Mental Retardation and Substance Abuse Services.
Department of Military Affairs.
Department of Mines, Minerals and Energy.
Department of Minority Business Enterprise.
Department of Motor Vehicles.
Department of Personnel and Training.
Department of Planning and Budget.
Department of Professional and Occupational Regulation.
Department of Rail and Public Transportation.
Department of Rehabilitative Services.
Department of Social Services.
Department of State Police.
Department of Taxation.
Department of Technology Planning.
Department of Transportation.
Department of the Treasury.

Department of Veterans' Affairs.

Governor's Employment and Training Department.

§ 2.1-1.7. State councils.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies either affiliated with more than one agency or independent of an agency within the executive branch:

Adult Education and Literacy, Virginia Advisory Council for
Aging, Commonwealth Council on
Agricultural Council, Virginia
Apprenticeship Council
Blue Ridge Regional Education and Training Council
Child Day-Care Council
Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion
Coastal Land Management Advisory Council, Virginia
Commonwealth Competition Council
Commonwealth's Attorneys' Services Council
Developmental Disabilities Planning Council, Virginia
Disability Services Council
Equal Employment Opportunity Council, Virginia
Housing for the Disabled, Interagency Coordinating Council on
Human Rights, Council on
Human Services Information and Referral Advisory Council
Indians, Council on
Interagency Coordinating Council, Virginia
Job Training Coordinating Council, Governor's
Land Evaluation Advisory Council
Maternal and Child Health Council
Military Advisory Council, Virginia
Needs of Handicapped Persons, Overall Advisory Council on the
Prevention, Virginia Council on Coordinating
Public Records Advisory Council, State
Rate-setting for Children's Facilities, Interdepartmental Council on
Revenue Estimates, Advisory Council on
Specialized Transportation Council
State Health Benefits Advisory Council
Status of Women, Council on the
Substance Abuse Services Council
~~Technology Council, Virginia~~
Virginia Business-Education Partnership Program, Advisory Council on the
Virginia Recycling Markets Development Council
Workforce Training Council, Statewide.

B. Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall be referred to as councils:

~~Council on Information Management~~
Higher Education, State Council of
Independent Living Council, Statewide
Rehabilitation Advisory Council, Statewide
Rehabilitation Advisory Council for the Blind, Statewide
Transplant Council, Virginia.

§ 2.1-20.4. Bodies receiving compensation.

Notwithstanding any other provision of law, members of the commissions, boards, committees, councils and other similar bodies listed below, and members of any other board, committee, council, or similar body who are appointed at the state level, shall receive compensation from state funds pursuant to § 2.1-20.3:

Accountancy, Board for
Agriculture and Consumer Services, Board of
Air Pollution Control Board, State
Airports Authority, Virginia
Apprenticeship Council
Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
~~Athletic Board, Virginia~~
Auctioneers Board
Audiology and Speech-Language Pathology, Board of

Aviation Board, Virginia
 Barbers, Board for
 Branch Pilots, Board for
 Building Code Technical Review Board, State
 Charitable Gaming Commission
 Chesapeake Bay Local Assistance Board
~~Chief Information Officer Advisory Board~~
 Coal Mining Examiners, Board of
 College Building Authority
 Commonwealth Competition Council
 Commonwealth Transportation Board
 Conservation and Development of Public Beaches, Board on
 Conservation and Recreation, Board of
 Contractors, Board for
 Correctional Education, Board of
 Corrections, Board of
 Cosmetology, Board for
 Criminal Justice Services Board
 Deaf and Hard-of-Hearing, Advisory Board for the
 Dentistry, Board of
 Education, State Board of
~~Education Loan Authority, Virginia - Board of Directors~~
 Elections, State Board of
~~Environment, Council on the~~
 Fire Services Board, Virginia
 Funeral Directors and Embalmers, Board of
 Game and Inland Fisheries, Board of
 Geology, Board for
 Health, State Board of
 Health Professions, Board of
 Hearing Aid Specialists, Board for
 Higher Education, State Council of
 Historic Resources, Board of
 Housing and Community Development, Board of
~~Information Management, Council on~~
 Juvenile Justice, State Board of
Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals, Board of
 Marine Resources Commission
 Medical Assistance Services, Board of
 Medical Complaint Investigation Committee
 Medicine, Board of
 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 Milk Commission
 Mineral Mining Examiners, Board of
 Motor Vehicle Dealer Board
 Nursing, Board of
 Nursing Home Administrators, Board of
 Occupational Therapy, Advisory Board on
 Oil and Gas Conservation Board, Virginia
 Opticians, Board for
 Optometry, Board of
 Pesticide Control Board
 Pharmacy, Board of
 Physical Therapy, Advisory Board on
 Port Authority, Board of Commissioners of the Virginia
 Professional and Occupational Regulation, Board for
~~Professional Counselors, Board of~~
 Professional Soil Scientists, Board for
 Psychology, Board of
 Public Defender Commission
 Public School Authority, Virginia
 Purchases and Supply Appeals Board
 Real Estate Appraiser Board

Real Estate Board
~~Recreation Specialists, Board of~~
 Rehabilitative Services, Board of
 Respiratory ~~Therapy~~ Care, Advisory Board on
 Safety and Health Codes Board
 Seed Potato Board, *State*
 Social Services, Board of
 Social Work, Board of
 State Health Department Sewage Handling and Disposal Appeal Review Board
 Substance Abuse Certification Board
 Surface Mining Review, Board of
 Treasury Board
 Veterans' Affairs, Board on
 Veterinary Medicine, Board of
 Virginia Advanced Shipbuilding and Carrier Integration Center Board
 Virginia Board for Asbestos ~~Licensing and Lead~~
 Virginia Health Planning Board
 Virginia Manufactured Housing Board
 Virginia Veterans Care Center Board of Trustees
 Virginia Waste Management Board
 Visually Handicapped, Virginia Board for the
 Waste Management Facility Operators, Board for
 Water Control Board, *State*
 Waterworks and Wastewater Works Operators, Board for
 Well Review Board, *Virginia*.

§ 2.1-51.27. Agencies for which responsible.

The Secretary of Administration shall be responsible to the Governor for the following agencies and boards: ~~Department of Information Technology, Council on Information Management,~~ Department of Personnel and Training, Department of General Services, Compensation Board, Secretary of the Commonwealth, Department of Employee Relations Counselors, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees, Commission on Local Government, Charitable Gaming Commission, and Virginia Public Broadcasting Board. The Governor may, by executive order, assign any other state executive agency to the Secretary of Administration, or reassign any agency listed above to another secretary.

§ 2.1-51.40. Agencies for which Secretary of Commerce and Trade responsible.

The Secretary shall be responsible to the Governor for the following agencies: Department of Business Assistance, Department of Forestry, Virginia Economic Development Partnership, Department of Labor and Industry, Department of Mines, Minerals and Energy, ~~Innovative Technology Authority,~~ Virginia Employment Commission, Department of Professional and Occupational Regulation, Milk Commission, Department of Agriculture and Consumer Services, Department of Housing and Community Development, Department of Minority Business Enterprise, Virginia Agricultural Council, Commission for the Arts, and Virginia Marine Products Board.

The Governor, by executive order, may assign any state executive agency to the Secretary of Commerce and Trade, or reassign any agency listed in this section to another secretary.

CHAPTER 5.11.

SECRETARY OF TECHNOLOGY.

§ 2.1-51.44. *Position established; appointment; term; oath.*

The position of Secretary of Technology is hereby created. The Secretary shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. The Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor is appointed and qualified. Before entering upon the discharge of duties, the Secretary shall take an oath to faithfully execute the duties of the office.

§ 2.1-51.45. *Subject to supervision by Governor; powers and duties.*

A. The Secretary of Technology shall be subject to direction and supervision by the Governor. The agencies assigned to the Secretary shall:

- 1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;*
- 2. Provide such assistance to the Governor or the Secretary as may be required; and*
- 3. Forward all reports to the Governor through the Secretary.*

B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:

- 1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;*
- 2. Direct the formulation of a comprehensive program budget for the functional area identified in*

§ 2.1-398 encompassing the services of agencies assigned for consideration by the Governor;

3. Hold agency heads accountable for their administrative, fiscal, and program actions in the conduct of the respective powers and duties of the agencies;

4. Direct the development of goals, objectives, policies, and plans that are necessary to the effective and efficient operation of government;

5. Sign documents on behalf of the Governor which originate with agencies assigned to the Secretary;

6. Employ such personnel and contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by statute or executive order; and

7. Have the following powers and duties concerning strategy development, planning and budgeting for technology programs in the Commonwealth:

a. Monitor trends and advances in fundamental technologies of interest and importance to the economy of the Commonwealth and direct and approve a stakeholder-driven technology strategy development process that results in a comprehensive and coordinated view of research and development goals for industry, academia and government in the Commonwealth. This strategy shall be updated biennially and submitted to the Governor, the Speaker of the House of Delegates and the President Pro Tempore of the Senate.

b. Work closely with the appropriate federal research and development agencies and program managers to maximize the participation of Commonwealth industries and universities in these programs consistent with agreed strategy goals.

c. Direct the development of plans and programs for strengthening the technology resources of the Commonwealth's high technology industry sectors and for assisting in the strengthening and development of the Commonwealth's Regional Technology Councils.

d. Direct the development of plans and programs for improving access to capital for technology-based entrepreneurs.

§ 2.1-51.46. Agencies for which Secretary of Technology responsible.

The Secretary of Technology shall be responsible to the Governor for the following agencies and boards: Department of Information Technology, Department of Technology Planning, Innovative Technology Authority, Virginia Geographic Information Network Advisory Board, and Virginia Information Providers Network Authority. The Governor, by executive order, may assign any other state executive agency to the Secretary of Technology, or reassign any agency listed in this section to another Secretary.

§ 2.1-51.47. Secretary to function as Chief Information Officer; powers and duties.

A. The Secretary of Technology shall function as the Chief Information Officer (CIO) of the Commonwealth. In addition to his powers and duties as Secretary of Technology, the CIO shall have the following general powers:

1. Employ such personnel as may be required to carry out the purposes of this chapter.

2. Make and enter into all contracts and agreements necessary or incidental to the performance of his duties and execution of his powers, including but not limited to contracts with the United States, other state agencies, institutions of higher education, and political subdivisions of the Commonwealth.

3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the CIO shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable.

4. Prescribe rules and regulations necessary or incidental to the performance of his duties or execution of his powers.

5. Exercise such powers and perform such duties as are conferred or imposed upon him by law or required of him by the Governor.

B. The CIO shall have the following powers and duties concerning the planning, budgeting, acquiring, using, disposing, managing, and administering of information technology in the Commonwealth:

1. Monitor trends and advances in information technology; direct and approve a comprehensive, statewide, four-year planning process; and plan for the acquisition, management, and use of information technology. The statewide plan shall be updated annually and submitted to the Governor, the Speaker of the House of Delegates, and the President Pro Tempore of the Senate. In developing and updating such plans, the CIO shall consider, at a minimum, the advice and recommendations of the Council on Technology Services created in § 2.1-51.48.

2. Require state agencies and institutions of higher education to prepare and submit information technology plans to the CIO. The CIO shall have the authority to approve and recommend amendments to such plans upon review and recommendation by the Department of Technology Planning (DTP). All state agencies and institutions of higher education shall maintain current information technology plans that have been approved by the CIO.

3. Direct the formulation and promulgation of policies, standards, specifications, and guidelines for information technology in the Commonwealth, including, but not limited to, those (i) required to support state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic

or base map data and related technologies and (ii) concerning the development of electronic transactions including the use of electronic signatures as provided in § 59.1-469.

4. Direct the development of policies and procedures, in consultation with the Department of Planning and Budget, which are integrated into the Commonwealth's strategic planning and performance budgeting processes, and which state agencies and institutions of higher education shall follow in developing information technology plans and technology-related budget requests. Such policies and procedures shall require consideration of the contribution of current and proposed technology expenditures to the support of agency and institution priority functional activities, as well as current and future operating expenses, and shall be utilized by all state agencies and institutions of higher education in preparing budget requests.

5. Review budget requests for information technology from state agencies and institutions of higher education and recommend budget priorities to the Department of Planning and Budget.

6. Direct the development of policies and procedures for review by the Department of Technology Planning of technology procurements, agreements, or contracts for amounts exceeding \$100,000. The Department of Technology Planning shall report monthly to the Secretary on all such reviews. The Secretary may delegate approval of such procurements to the Department of Technology Planning; however, approval of procurements in excess of one million dollars shall not be delegated by the Secretary.

7. Disapprove procurements that, on the recommendation of the Department of Technology Planning, do not conform to the statewide information technology plan or to the individual plans of state agencies or institutions of higher education.

8. Direct the development of policies and procedures for the effective management of technology investments throughout their entire life cycle, including, but not limited to, project definition, procurement, development, implementation, operation, performance evaluation, and enhancement or retirement. Such policies and procedures shall include, at a minimum, the periodic review by the Secretary of the execution of agency and institution of higher education technology projects estimated to cost one million dollars or more. The Secretary shall be authorized to direct the modification, suspension, or cessation of any such project which, as the result of a periodic review, has not met the milestones and performance measures agreed to by the Secretary and the sponsoring agency or institution. This shall not supercede the responsibility of a board of visitors for the management and operation of an institution of higher education.

9. Direct the establishment of statewide standards for the efficient exchange of electronic information and technology, including infrastructure, between the public and private sectors in the Commonwealth.

10. Oversee and administer the Virginia Technology Infrastructure Fund created in § 9-145.52.

11. Undertake or cause to be undertaken a periodic benchmarking analysis of data center and telecommunications resources and services performed at or provided by agencies and institutions.

12. Evaluate the feasibility of outsourcing information technology resources and services and outsource those resources and services which would be beneficial to the Commonwealth.

13. Report annually to the Joint Commission on Technology and Science created pursuant to § 30-85 on the use and application of information technology by state agencies and institutions of higher education to increase economic efficiency, citizen convenience, and public access to state government and to assist the Commission in its effort to stimulate, encourage, and promote the development of technology in the Commonwealth and sound public policies related thereto.

C. As used in this chapter, "information technology" includes telecommunications, automated data processing, word processing, the global information system known as the Internet, management information systems, and related information, equipment, goods, and services. It is in the interest of the Commonwealth that its institutions of higher education be in the forefront of developments in technology. Therefore the provisions of this chapter shall not be construed to hamper the pursuit of the missions of the institutions in instruction and research.

§ 2.1-51.48. Council on Technology Services created; membership; duties.

A. There is hereby established a Council on Technology Services (the COTS) to advise and assist the Secretary of Technology in exercising the powers and performing the duties conferred by this chapter. The COTS shall consist of no more than twenty-six nor fewer than twenty members, to be appointed by the Governor upon recommendation of the Secretary of Technology, as follows: at least one representative from the Secretariats of Administration, Commerce and Trade, Education, Finance, Health and Human Resources, Natural Resources, Public Safety, and Transportation; at least four representatives from state-supported institutions of higher education; at least one representative from an independent agency of state government; and at least three representatives from public bodies other than the Commonwealth selected from a list of names submitted by the Virginia Local Government Information Technology Executives. For terms coincident with their terms of office, the following shall serve as ex officio, voting members of the COTS: Director of the Department of Information Technology, Director of the Department of Technology Planning, Director of Information Systems of the Supreme Court of Virginia, and Director of the Division of Legislative Automated Systems.

B. In making appointments, the Governor shall include not only information systems and

telecommunications professionals, but also managers and directors in agencies who are responsible for business and strategic planning. Members of the Council shall serve at the pleasure of the Governor. Members shall be appointed for a term of two years and shall be eligible for reappointment.

C. The Secretary shall be the chairman of the COTS. The COTS shall meet quarterly and at such other times as may be called by the chairman.

§ 2.1-51.49. Chief Information Officer Advisory Board created; membership; duties.

A. There is hereby established the Chief Information Officer Advisory Board (the Board). The purpose of the Board shall be to advise the CIO on the proper planning, practical acquisition, effective development, and efficient use of information technology to serve the needs of agencies and institutions of higher education in the Commonwealth.

B. Persons appointed to the Board shall be selected for their knowledge of, background in, or experience with information technology in a private, for-profit or not-for-profit organization. No employee of any public body shall be eligible for appointment to the Board.

C. The Board shall consist of twelve members who shall be appointed by the Governor to serve at his pleasure. The Governor shall designate one member as the chairman. Of the members first appointed, four shall be appointed for terms of four years, four for terms of three years, and four for terms of two years. Thereafter, the successors to the persons first appointed shall be appointed for terms of four years. Any vacancy occurring other than by expiration of a term shall be filled by the Governor for the unexpired term.

D. The Board shall meet quarterly and at such other times as may be called by the CIO.

E. The disclosure requirements of subsection B of § 2.1-639.13 of the State and Local Government Conflict of Interests Act shall apply to members of the Board. Board members shall be compensated for the performance of their duties subject to the provisions of § 2.1-20.3.

§ 2.1-51.50. CIO advisory committees.

The CIO may form such advisory committees as he deems necessary, convenient, or desirable to advise and assist him in exercising the powers and performing the duties conferred by this chapter. The disclosure requirements of subsection B of § 2.1-639.13 of the State and Local Government Conflict of Interests Act shall apply to members of the advisory committees. Members of advisory committees shall be compensated for the performance of their duties subject to the provisions of § 2.1-20.3.

§ 2.1-563.16. General powers of Department.

A. The Department shall have the following general powers, all of which, with the approval of the Director of the Department, may be exercised by a division of the Department with respect to matters assigned to that division:

1. Employ such personnel as may be required to carry out the purposes of this chapter;
2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth;
3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;
4. Prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter;
5. Establish fee schedules which may be collectible from users when general fund appropriations are not applicable to the services rendered; and
6. Do all acts necessary or convenient to carry out the purposes of this chapter.

B. All statewide contracts and agreements made and entered into by the Department for the purchase of computers, software, supplies, and related peripheral equipment and services shall provide for the inclusion of counties, cities, and towns in such contracts and agreements. For good cause shown, the Secretary of Administration Technology may disapprove such inclusion from a specific contract or agreement. *Notwithstanding the provisions of § 11-37, the Department may enter into multiple vendor contracts for the referenced hardware, software, and services.*

§ 2.1-563.17. Powers and duties.

The Department shall have the following powers and duties concerning the planning, budgeting, acquiring, using and disposing of communications equipment and services:

1. To formulate policies, standards, and specifications for telecommunications, automated data and word processing, and management information systems.
2. To analyze and approve all procurements of interconnective telecommunications facilities, telephones, automated data and word processing, and other communications equipment and goods.
3. To review and approve all agreements and contracts for communications services prior to execution between a state agency and another public or private agency.
4. To develop and administer a system to monitor and evaluate executed contracts and billing and collection systems.
5. To exempt from review requirements, but not from the state's competitive procurement process, any state agency which establishes, to the satisfaction of the Department, (i) its ability and willingness

to administer efficiently and effectively the procurement of communications services or (ii) that it has been subjected to another review process coordinated through or approved by the Department. Laboratory equipment containing microprocessors which will be employed solely for "realtime" research purposes are exempt, but all exemptions are subject to post-audit by the Department.

This section shall not be construed or applied so as to infringe upon, in any manner, the responsibilities for accounting systems assigned to the Comptroller under § 2.1-196.1.

ARTICLE 7.1.

DEPARTMENT OF TECHNOLOGY PLANNING.

§ 2.1-563.28:1. *Creation of Department; appointment of Director.*

There is hereby created a Department of Technology Planning. The Department shall be headed by a Director who shall be appointed by the Governor to serve at his pleasure for a term coincident with his own.

Whenever in this title and in the Code of Virginia reference is made to a division, department, or agency hereinafter transferred to this Department, it shall mean the Department of Technology Planning.

§ 2.1-563.28:2. *Powers and duties of Director.*

The Director of the Department of Technology Planning shall, under the direction and control of the Governor, exercise such powers and perform such duties as are conferred or imposed upon him by law and he shall perform such other duties as may be required of him by the Governor.

§ 2.1-563.28:3. *General powers of Department.*

A. The Department shall have the following general powers, all of which, with the approval of the Director, may be exercised by a division of the Department with respect to matters assigned to that division:

- 1. Employ such personnel as may be required to carry out the purposes of this chapter.*
- 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including, but not limited to, contracts with the United States, other state agencies, and political subdivisions of the Commonwealth.*
- 3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable.*
- 4. Prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter.*
- 5. Do all acts necessary, convenient, or desirable to carry out the purposes of this chapter.*

B. The Department shall have the following powers and duties concerning the planning, budgeting, acquiring, using, disposing, managing, and administering of information technology:

- 1. To monitor trends and advances in information technology; develop a comprehensive, statewide, four-year planning process; and plan for the acquisition, management, and use of information technology.*
- 2. To plan and forecast future needs for information technology and conduct studies and surveys of organizational structures and best management practices of information technology systems and procedures.*
- 3. To assist the Secretary of Technology in the development of statewide policies affecting technology at all levels of government, in the business sector, and among the general citizenry.*
- 4. To provide agencies and institutions of higher education with information and guidelines in the development of information management plans and the preparation of budget requests for information technology which are consistent with the policies and procedures developed by the Secretary of Technology, in consultation with the Department of Planning and Budget, for integrating such plans and requests into the Commonwealth's strategic planning and performance budgeting processes.*
- 5. To review information management plans submitted by agencies and institutions of higher education to the Secretary of Technology. The Department shall recommend to the Secretary of Technology the approval of such plans and any amendments thereto.*
- 6. To monitor implementation of information management plans and periodically report its findings to the Secretary of Technology.*
- 7. To develop and promulgate policies, standards, and guidelines for managing information technology in the Commonwealth.*
- 8. To review agency and institution budget requests for information technology and recommend to the Secretary of Technology budget request priorities for consideration by the Department of Planning and Budget.*
- 9. To direct the compilation and maintenance of an inventory of information technology, including, but not limited to, personnel, facilities, equipment, goods, and contracts for services.*
- 10. To develop an approval process to ensure that all information technology procurements conform to the statewide information management plan and the information management plans of agencies and institutions of higher education.*
- 11. To develop statewide standards for the efficient exchange of electronic information and*

technology, including infrastructure, between the public and private sectors in the Commonwealth.

§ 2.1-563.36. Definitions.

As used in this article, unless the context clearly requires a different meaning:

"Base map data" means the digitized common geographic data that are used by most geographic information systems applications to reference or link attribute or other geographic data.

"Board" means the Virginia Geographic Information Network Advisory Board.

~~"Council"~~ *"Department"* means the ~~Council on Information Management~~ *Department of Technology Planning*.

"Director" means the Director of the ~~Council on Information Management~~ *Department of Technology Planning*.

"Division" means the Geographic Information Network Division.

"Geographic data" means data that contain either coordinates that reference a geographic location or area or attribute data that can be related to a geographic area or location.

"Geographic information system (GIS)" means a computerized system that stores and links geographic data to allow a wide range of information processing and display operations, as well as map production, analysis, and modeling.

§ 2.1-563.37. Geographic Information Network Division established.

There is hereby established within the ~~Council on Information Management~~, *Department of Technology Planning* a Geographic Information Network Division, which shall foster the creative utilization of geographic information and oversee the development of a catalog of GIS data available in the Commonwealth. The Division shall be headed by a coordinator who shall report to the Director. The Division shall exercise the powers and duties conferred in this article.

§ 2.1-563.38. Powers and duties of the Division; Division coordinator.

A. The powers and duties of the Division include:

1. Requesting the services, expertise, supplies and facilities of the ~~Council~~ *Department* from the Director on issues concerning the Division.

2. Accepting grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Division shall have the power to comply with such conditions and execute such agreements as may be necessary or desirable.

3. Fixing, altering, charging, and collecting rates, rentals, and other charges for the use or sale of products of, or services rendered by, the Division, at rates which reflect the fair market value.

4. Soliciting, receiving, and considering proposals for funding projects or initiatives from any state or federal agency, local or regional government, institution of higher education, nonprofit organization, or private person or corporation.

5. Soliciting and accepting funds, goods and in-kind services that are part of any accepted project proposal.

6. Establishing ad hoc committees or project teams to investigate related technology or technical issues and providing results and recommendations for Division action.

7. Establishing such bureaus, sections or units as the Division deems appropriate to carry out its powers and duties.

B. The Division shall have a coordinator, under the supervision of the Director, who shall:

1. Oversee the development of and recommend to the Council the promulgation of those policies and guidelines required to support state and local government exchange, acquisition, storage, use, sharing and distribution of geographic or base map data and related technologies.

2. Foster the development of a coordinated comprehensive system for providing ready access to electronic state government geographic data products for individuals, businesses, and other entities.

3. Initiate and manage projects or conduct procurement activities relating to the development or acquisition of geographic data and/or statewide base map data.

4. Plan for and coordinate the development or procurement of priority geographic base map data.

5. Develop, maintain, and provide, in the most cost-effective manner, access to the catalog of Virginia geographic data and governmental geographic data users.

6. Provide, upon request, advice and guidance on all agreements and contracts from all branches of state government for geographic data acquisition and design and the installation and maintenance of geographic information systems.

7. Compile a data catalog consisting of descriptions of GIS coverages maintained by individual state and local government agencies.

Nothing in this article shall be construed to require that GIS data be physically delivered to the Division. All state agencies that maintain GIS data bases shall report to the Division the details of the data that they develop, acquire, and maintain. This information shall be reported to the Division no later than June 30, 1998, after which each agency shall submit quarterly reports to the Division specifying all updates to existing data as well as all data development and acquisition currently in progress. Data exempt from the Virginia Freedom of Information Act (§ 2.1-340 et seq.) need not be reported to the Division.

8. Identify and collect information and technical requirements to assist the Division in setting

priorities for the development of state digital geographic data and base maps that meet the needs of state agencies, institutions of higher education, and local governments.

9. Provide services, geographic data products and access to the repository at rates established by the Division.

10. Ensure the compliance of those policies, standards, and guidelines ~~adopted~~ *developed* by the ~~Council~~ *Department* required to support and govern the security of state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies.

§ 2.1-563.40. Additional powers and duties of Director of the Department.

The Director of the ~~Council on Information Management~~ *Department of Technology Planning* shall have the power and duty, on the recommendation of the Coordinator, to (i) receive and dispense funds; (ii) enter into contracts for the purpose of carrying out the provisions of this article; (iii) rent office space and procure equipment, goods, and services that are necessary to carry out the provisions of this article; and (iv) employ full-time or part-time personnel and to fix their compensation.

§ 2.1-563.41. Virginia Geographic Information Network Advisory Board created; membership; terms; meetings; quorum.

A. The Virginia Geographic Information Network Advisory Board (the "Board") is hereby created and shall advise the Division on issues related to the exercise of the Division's powers and duties.

B. The Board shall consist of seventeen members appointed as follows: (i) eleven members to be appointed by the Governor, including: four state agency officials or their designees consisting of the Commonwealth Transportation Commissioner, the Executive Director of the Economic Development Partnership Authority, an agency director from one of the natural resources agencies, and one official from a state university; one elected official representing a local government in the Commonwealth; one member of the Virginia Association of Surveyors; one elected official who serves on a planning district commission; two representatives of utilities or transportation industries utilizing geographic data; and two representatives of private businesses with expertise and experience in the establishment, operation, and maintenance of geographic information systems; and (ii) five members of the General Assembly, three of whom shall be members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, and two of whom shall be members of the Senate, to be appointed by the Senate Committee on Privileges and Elections. The Director of the ~~Council on Information Management~~ *Department of Technology Planning* shall serve as an ex officio, voting member. Any members of the Board who are representatives of private businesses that provide geographic information services, and their companies, are precluded from contracting to provide goods or services to the Division.

C. The gubernatorial appointees to the Board shall serve five-year terms, except that three initial appointees shall serve three-year terms, three shall serve four-year terms, and the remainder shall serve five-year terms. Members appointed by the Governor shall serve no more than two consecutive full terms. All members of the Board appointed by the Governor shall be confirmed by each house of the General Assembly. Legislative members' terms shall be coincident with their terms of office.

D. The Board shall elect from its membership a chairman, vice-chairman, and any other officers deemed necessary. The duties and terms of the officers shall be prescribed by the members. A majority of the Board shall constitute a quorum. Members of the Board shall receive no compensation for their services, but the nongovernmental members shall receive actual expenses in accordance with § 2.1-20.8. The Board shall meet at least quarterly or at the call of its chairman or the Director.

§ 9-6.14:4.1. Exemptions and exclusions.

A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the following agencies are exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

1. The General Assembly.
2. Courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.
3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.
4. The Virginia Housing Development Authority.
5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.
6. Educational institutions operated by the Commonwealth, provided that, with respect to § 9-6.14:22, such educational institutions shall be exempt from the publication requirements only with respect to regulations which pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.
7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for

producers' milk, time and method of payment, butterfat testing and differential.

8. The Virginia Resources Authority.
 9. Agencies expressly exempted by any other provision of this Code.
 10. The Virginia Voluntary Formulary Board in formulating recommendations regarding amendments to the Formulary pursuant to § 32.1-81.
 11. ~~The Council on Information Management.~~
 12. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.1-526.14.
 - 13., 14. [Repealed.]
 15. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23-9.6:2.
 16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.1-726.
 17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4, subsection B of § 3.1-126.12:1, § 3.1-271.1, § 3.1-398, subsections B and C of § 3.1-828.4, and subsection A of § 3.1-884.21:1.
 18. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
 19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating amendments to the Physician Assistant Formulary established pursuant to § 54.1-2952.1.
 20. The Boards of Medicine and Nursing in promulgating amendments to the Nurse Practitioner Formulary established pursuant to § 54.1-2957.01.
 21. The Virginia War Memorial Foundation.
 22. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
 23. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-280.3.
 24. The Virginia Racing Commission, when acting by and through its duly appointed stewards or in matters related to any specific race meeting.
 25. The Virginia Small Business Financing Authority.
 26. The Virginia Economic Development Partnership Authority.
 27. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.
 28. The Insurance Continuing Education Board pursuant to § 38.2-1867.
- B. Agency action relating to the following subjects is exempted from the provisions of this chapter:
1. Money or damage claims against the Commonwealth or agencies thereof.
 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
 3. The location, design, specifications or construction of public buildings or other facilities.
 4. Grants of state or federal funds or property.
 5. The chartering of corporations.
 6. Customary military, naval or police functions.
 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
 8. The conduct of elections or eligibility to vote.
 9. Inmates of prisons or other such facilities or parolees therefrom.
 10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
 11. Traffic signs, markers or control devices.
 12. Instructions for application or renewal of a license, certificate, or registration required by law.
 13. Content of, or rules for the conduct of, any examination required by law.
 14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter 14 of Title 2.1.
 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the State Lottery Board, and provided that such regulations are published and posted.
 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
 17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1.
 18. The regulations for the implementation of the Health Practitioners' Intervention Program and the activities of the Intervention Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title

54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

1. Agency orders or regulations fixing rates or prices.

2. Regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations which consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations which:

(a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

(b) Are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

(c) Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than thirty days prior to the effective date thereof.

5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act or the effective date of the federal regulation, and the regulation is not exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt such regulations. Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. Such regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar within 180 days after the effective date of the emergency regulation and published as soon as practicable.

6. [Repealed.]

7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

9. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 which are limited to reducing fees charged to regulants and applicants.

10. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

11. General permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in

the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

12. General permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

13. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

14. Regulations of the Board of the Virginia Higher Education Tuition Trust Fund promulgated pursuant to § 23-38.77.

15. The development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307 if the Commission: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

Whenever regulations are adopted under this subsection C, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this subsection shall be in accordance with the provisions of § 9-6.14:9.3, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 9-6.14:9.

D. The following agency actions otherwise subject to this chapter are excluded from the operation of Article 3 (§ 9-6.14:11 et seq.) of this chapter:

1. The assessment of taxes or penalties and other rulings in individual cases in connection with the administration of the tax laws.

2. The award or denial of claims for workers' compensation.

3. The grant or denial of public assistance.

4. Temporary injunctive or summary orders authorized by law.

5. The determination of claims for unemployment compensation or special unemployment.

6. The suspension of any license, certificate, registration or authority granted any person by the Department of Health Professions or the Department of Professional and Occupational Regulation for the dishonor, by a bank or financial institution named, of any check, money draft or similar instrument used in payment of a fee required by statute or regulation.

E. Appeals from decisions of the Governor's Employment and Training Department otherwise subject to this chapter are excluded from the operation of Article 4 (§ 9-6.14:15 et seq.) of this chapter.

F. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act, is excluded from the operation of subdivision C 5 of this section and of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter.

G. A regulation for which an exemption is claimed under this section and which is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

H. The Joint Legislative Audit and Review Commission shall conduct a review periodically of exemptions and exclusions authorized by this section. The purpose of this review shall be to assess whether there are any exemptions or exclusions which should be discontinued or modified.

I. Minor changes to regulations being published in the Virginia Administrative Code under the Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.

§ 9-6.23. Prohibition against service by legislators on boards, commissions, and councils within the executive branch.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch which are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch which is responsible for administering programs established by the General Assembly, such portion of such law shall be void,

and the Governor shall appoint another person from the Commonwealth at large to fill such a position. The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of the Virginia Interagency Coordinating Council, who shall be appointed as provided for in § 2.1-750; to members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be appointed as provided for in § 9-326; to members of the Advisory Commission on Welfare Reform, who shall be appointed as provided for in § 63.1-133.44; to members of the Virginia Correctional Enterprises Advisory Board, who shall be appointed as provided for in § 53.1-45.3; to members appointed to the Virginia Veterans Cemetery Board pursuant to § 2.1-739.2; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § 9-343; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.1-563.41; to members of the Advisory Commission on the Virginia Schools for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.1; to members of the Council on Coordinating Prevention, who shall be appointed as provided for in § 9-268; or to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 37.1-207.

§ 9-6.25:1. Advisory boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following advisory boards, commissions and councils within the executive branch:

- Advisory Board for the Department for the Deaf and Hard-of-Hearing
- Advisory Board on Child Abuse and Neglect
- Advisory Board on Medicare and Medicaid
- Advisory Board on Occupational Therapy
- Advisory Board on Physical Therapy to the Board of Medicine
- Advisory Board on Rehabilitation Providers
- Advisory Board on Respiratory Therapy Care to the Board of Medicine
- Advisory Board on Teacher Education and Licensure
- Advisory Commission on the Virginia Schools for the Deaf and the Blind
- Advisory Council on Revenue Estimates
- Advisory Council on the Virginia Business-Education Partnership Program
- Appomattox State Scenic River Advisory Board
- Aquaculture Advisory Board
- Art and Architectural Review Board
- Board for the Visually Handicapped
- Board of Directors, Virginia Truck and Ornamentals Research Station
- Board of Forestry
- Board of Military Affairs
- Board of Rehabilitative Services
- Board of Transportation Safety
- Board of Trustees of the Family and Children's Trust Fund
- Board of Visitors, Gunston Hall Plantation
- Board on Veterans' Affairs
- Catoctin Creek State Scenic River Advisory Board
- Cave Board
- Charity Food Assistance Advisory Board
- Chickahominy State Scenic River Advisory Board
- Chief Information Officer Advisory Board
- Clinch Scenic River Advisory Board
- Coal Surface Mining Reclamation Fund Advisory Board
- Coastal Land Management Advisory Council, Virginia
- Commonwealth Competition Council
- Commonwealth Council on Aging
- Council on Indians
- Council on the Status of Women
- Debt Capacity Advisory Committee
- Emergency Medical Services Advisory Board
- Falls of the James Committee
- Goose Creek Scenic River Advisory Board
- Governor's Mined Land Reclamation Advisory Committee

Hemophilia Advisory Board
 Human Services Information and Referral Advisory Council
 Interagency Coordinating Council on Housing for the Disabled
 Interdepartmental Board of the State Department of Minority Business Enterprise
 Litter Control and Recycling Fund Advisory Board
 Local Advisory Board to the Blue Ridge Community College
 Local Advisory Board to the Central Virginia Community College
 Local Advisory Board to the Dabney S. Lancaster Community College
 Local Advisory Board to the Danville Community College
 Local Advisory Board to the Eastern Shore Community College
 Local Advisory Board to the Germanna Community College
 Local Advisory Board to the J. Sargeant Reynolds Community College
 Local Advisory Board to the John Tyler Community College
 Local Advisory Board to the Lord Fairfax Community College
 Local Advisory Board to the Mountain Empire Community College
 Local Advisory Board to the New River Community College
 Local Advisory Board to the Northern Virginia Community College
 Local Advisory Board to the Patrick Henry Community College
 Local Advisory Board to the Paul D. Camp Community College
 Local Advisory Board to the Piedmont Virginia Community College
 Local Advisory Board to the Rappahannock Community College
 Local Advisory Board to the Southside Virginia Community College
 Local Advisory Board to the Southwest Virginia Community College
 Local Advisory Board to the Thomas Nelson Community College
 Local Advisory Board to the Tidewater Community College
 Local Advisory Board to the Virginia Highlands Community College
 Local Advisory Board to the Virginia Western Community College
 Local Advisory Board to the Wytheville Community College
 Maternal and Child Health Council
 Medical Advisory Board, Department of Motor Vehicles
 Migrant and Seasonal Farmworkers Board
 Motor Vehicle Dealer's Advisory Board
 North Meherrin State Scenic River Advisory Board
 Nottoway State Scenic River Advisory Board
 Personnel Advisory Board
 Plant Pollination Advisory Board
 Private College Advisory Board
 Private Security Services Advisory Board
 Psychiatric Advisory Board
 Public Guardian and Conservator Advisory Board
 Radiation Advisory Board
 Rappahannock Scenic River Advisory Board
 Recreational Fishing Advisory Board, Virginia
 Reforestation Board
 Rockfish State Scenic River Advisory Board
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 St. Mary's Scenic River Advisory Committee
 State Advisory Board for the Virginia Employment Commission
 State Advisory Board on Air Pollution
 State Building Code Technical Review Board
 State Health Benefits Advisory Council
 State Land Evaluation Advisory Council
 State Networking Users Advisory Board
 State Public Records Advisory Council
 Statewide Independent Living Council
 Statewide Rehabilitation Advisory Council
 Statewide Rehabilitation Advisory Council for the Blind
 Statewide Workforce Training Council
 Staunton Scenic River Advisory Committee
 Substance Abuse Services Council
 Telecommunications Relay Service Advisory Board
 Virginia-Israel Advisory Board

Virginia Advisory Commission on Intergovernmental Relations
 Virginia Advisory Council for Adult Education and Literacy
 Virginia Coal Mine Safety Board
 Virginia Coal Research and Development Advisory Board
 Virginia Commission for the Arts
~~Virginia Commission on the Bicentennial of the United States Constitution~~
 Virginia Correctional Enterprises Advisory Board
 Virginia Council on Coordinating Prevention
 Virginia Equal Employment Opportunity Council
 Virginia Geographic Information Network Advisory Board
 Virginia Interagency Coordinating Council
 Virginia Military Advisory Council
 Virginia Public Buildings Board
 Virginia Recycling Markets Development Council
~~Virginia Technology Council~~
 Virginia Transplant Council
 Virginia Veterans Cemetery Board
 Virginia Water Resources Research Center, Statewide Advisory Board
 Virginia Winegrowers Advisory Board.

§ 9-6.25:2. Policy boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following policy boards, commissions and councils:

Apprenticeship Council
~~Athletic Board~~
 Auctioneers Board
 Blue Ridge Regional Education and Training Council
 Board for Accountancy
 Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects
 Board for Barbers
 Board for Contractors
 Board for Cosmetology
 Board for Geology
 Board for Hearing Aid Specialists
 Board for Opticians
 Board for Professional and Occupational Regulation
 Board for Professional Soil Scientists
 Board for Waterworks and Wastewater Works Operators
 Board of Agriculture and Consumer Services
 Board of Audiology and Speech-Language Pathology
 Board of Coal Mining Examiners
 Board of Conservation and Recreation
 Board of Correctional Education
 Board of Dentistry
~~Board of Directors, Virginia Student Assistance Authorities~~
 Board of Funeral Directors and Embalmers
 Board of Health Professions
 Board of Historic Resources
 Board of Housing and Community Development
 Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals
 Board of Medical Assistance Services
 Board of Medicine
 Board of Mineral Mining Examiners
 Board of Nursing
 Board of Nursing Home Administrators
 Board of Optometry
 Board of Pharmacy
 Board of Psychology
~~Board of Recreation Specialists~~
 Board of Social Services
 Board of Social Work
 Board of Surface Mining Review
 Board of Veterinary Medicine

Board on Conservation and Development of Public Beaches
 Cemetery Board
 Chesapeake Bay Local Assistance Board
 Child Day-Care Council
 Commission on Local Government
 Commonwealth Transportation Board
 Council on Human Rights
~~Council on Information Management~~
 Criminal Justice Services Board
 Design-Build/Construction Management Review Board
 Disability Services Council
 Farmers Market Board, Virginia
 Interdepartmental Council on Rate-setting for Children's Facilities
 Library Board, The Library of Virginia
 Marine Resources Commission
 Milk Commission
 Pesticide Control Board
 Real Estate Appraiser Board
 Real Estate Board
 Reciprocity Board, Department of Motor Vehicles
 Safety and Health Codes Board
~~Seed Potato Board~~
 Specialized Transportation Council
 State Air Pollution Control Board
 State Board of Corrections
 State Board of Elections
 State Board of Health
 State Board of Juvenile Justice
 State Health Department, Sewage Handling and Disposal Appeal Review Board
~~State Library Board~~
 State Mental Health, Mental Retardation and Substance Abuse Services Board
~~State Seed Potato Board~~
 State Water Control Board
 Substance Abuse Certification Board
 Treasury Board, The, Department of the Treasury
 Virginia Aviation Board
 Virginia Board for Asbestos and Lead
 Virginia Fire Services Board
 Virginia Gas and Oil Board
 Virginia Health Planning Board
 Virginia Manufactured Housing Board
 Virginia Parole Board
 Virginia Public Broadcasting Board
 Virginia Soil and Water Conservation Board
 Virginia Voluntary Formulary Board
 Virginia Waste Management Board
 Waste Management Facility Operators, Board for.

§ 9-145.53. Definitions.

As used in this chapter, unless the context clearly provides otherwise:

"Costs" means the reasonable and customary charges for goods and services incurred or to be incurred in the establishment of information technology demonstration and pilot projects.

~~"Council" means the Council on Information Management.~~

"Fund" means the Virginia Technology Infrastructure Fund.

"Technology infrastructure" means telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services.

§ 9-145.56. Annual plan; allowable uses of Fund.

~~The Council on Information Management~~ *Secretary of Technology*, with advice from its ~~Agency and Education Advisory Committees~~ *the Council on Technology Services and the Department of Technology Planning*, shall prepare a plan which identifies the projects in which the Virginia Technology Infrastructure Fund will participate. Such plan shall be consistent with the statewide plan developed by the ~~Council~~. ~~In considering projects for approval, the Council~~ *Secretary and* shall consider the use of existing resources and long-term operation and maintenance costs. Projects having the greatest benefit to state government as a whole shall have the highest priority in the plan.

§ 9-253. Board of directors.

A. The Authority shall be governed by a board of directors consisting of ~~fifteen~~ *sixteen* members appointed by the Governor, two of whom shall be the Presidents of the major research universities and one of whom shall represent the other state colleges or universities. Of the presidents to be appointed in 1993, one shall be appointed for a three-year term, one shall be appointed for a four-year term and one shall be appointed for a five-year term. Thereafter, all appointments of presidents shall be for terms of five years, except that appointments to fill vacancies shall be for the unexpired terms. No president shall be eligible to serve for more than two successive five-year terms; however, after the expiration of a term of four years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. The Secretary of Education, the Secretary of Commerce and Trade, *the Secretary of Technology*, and the Director of the State Council of Higher Education shall serve on the board for terms coincident with their terms of office. The Governor shall appoint the nine other directors who shall be nominated by established industry groups and technology councils within the Commonwealth. These appointees shall include representatives of a variety of businesses, industries and corporations of different types, sizes, locations and stages of development. All members of the board of directors appointed by the Governor shall be confirmed by each house of the General Assembly. Three of the nine directors appointed by the Governor shall be appointed for terms of three years, three for terms of four years, and three for terms of five years, from the effective date of their appointment; and thereafter the members of the board shall be appointed for terms of ~~five~~ *four* years. Vacancies in the membership of the board shall be filled by appointment of the Governor for the unexpired portion of the term. No director shall be eligible to serve for more than two successive ~~five-year~~ terms; however, after the expiration of a term of four years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Members of the board shall be subject to removal from office in like manner as are state, county, town and district officers under the provisions of §§ 24.2-230 through 24.2-238. The Circuit Court of the City of Richmond shall have exclusive jurisdiction of all proceedings for such removal. Immediately after such appointment, the directors shall enter upon the performance of their duties. The members of the board shall annually elect one of the members of the board to be chairman. The board shall annually elect one of its members as vice-chairman, and shall also elect annually a secretary, who may or may not be a member of the board, and may also elect such other subordinate officers who may or may not be members of the board, as it shall deem proper. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the board. In the absence of both the chairman and vice-chairman, the board shall appoint a chairman pro tempore, who shall preside at such meetings. The board shall employ a President of the Authority, who shall serve at the pleasure of the board, to direct the day-to-day operations and activities of the Authority and carry out such of the powers and duties conferred upon him as may be delegated to him by the board. The President and employees of the Authority shall be compensated in the manner provided by the board and shall not be subject to the provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1. The terms of all current board members shall expire on April 7, 1993.

B. The board shall establish a twenty-two member technical advisory committee with representatives recommended by technology councils, industry and business associations, and college and university presidents. Ten members shall have knowledge, skills and expertise in the needs of industry, and ten shall have knowledge, skills and expertise in specific technology areas. The chief technical officer of the Center for Innovative Technology and the Director of the Department of Minority Business Enterprise shall also serve on this committee.

§ 9-266.4. Board of directors.

The Authority shall be governed by a board of directors consisting of ~~eleven~~ *twelve* members, ~~two~~ *four* of whom shall be the President of the Center for Innovative Technology, the President of Old Dominion University, ~~and~~ the Secretary of Commerce and Trade, *and the Secretary of Technology*, who shall serve as directors during their terms in offices. The remaining ~~seven~~ *eight* members shall be appointed by the Governor as follows: three members representative of the commercial space flight industry; two members representing the telecommunications industry; one member representing the County of Accomack, one member representing the County of Northampton, and one at-large member. Two of such directors appointed by the Governor shall be appointed for terms of one year, three for terms of two years, and three for terms of three years, from the effective date of their appointment; and thereafter the members of the board shall be appointed for terms of three years. All members of the board appointed by the Governor shall be confirmed by each house of the General Assembly. Vacancies in the membership of the board shall be filled by appointment for the unexpired portion of the term. Members of the board shall be subject to removal from office in like manner as are state, county, town and district officers under the provisions of §§ 24.2-230 through 24.2-238 of the Code of Virginia. Immediately after such appointment, the directors shall enter upon the performance of their duties. The board shall annually elect one of its members as chairman and another as vice-chairman, *a* secretary, and a treasurer who may or may not be a member of the board. The board may also elect other subordinate officers, who may or may not be members of the board, as it deems proper. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the board. In the absence of both

the chairman and vice-chairman, the board shall appoint a chairman pro tempore, who shall preside at such meetings. ~~Six~~ *Seven* directors shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The members of the board shall be entitled to reimbursement for their reasonable travel, meal and lodging expenses incurred in attending the meetings of the board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers signed by the chairman of the board or by such other person or persons as may be designated by the board for this purpose. The board may employ an Executive Director of the Authority, who shall serve at the pleasure of the board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him as may be delegated to him by the board. The Executive Director and employees of the Authority shall be compensated in the manner provided by the board and shall not be subject to the provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 of the Code of Virginia.

§ 9-361. Board of directors.

The Authority shall be governed by a board of directors consisting of eleven members, two of whom shall be the Secretary of ~~Administration~~ *Technology* and the Director of the ~~Council on Information Management~~ *Department of Technology Planning*, both of whom shall serve during their terms of office. The remaining nine members shall be appointed by the Governor as follows: three members who are chief executive officers of agencies in the executive branch; two members from a list submitted by the Virginia State Bar; three members from user associations of a statewide character, except that no two shall represent the same user association; and one member from a list submitted by the Librarian of Virginia. Three members appointed by the Governor shall be appointed for terms of one year, three for terms of two years, and three for terms of three years, effective from their dates of appointment. Thereafter, board members shall be appointed for terms of three years. All board members appointed by the Governor shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Vacancies in board membership shall be filled by appointment for the unexpired portion of the term. Board members shall be subject to removal from office for cause. The board shall annually elect one of its members as chairman, one as vice-chairman, and another as secretary. The board may also elect other subordinate officers, who may or may not be members of the board, as it deems proper. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the board. In the absence of both the chairman and vice-chairman, the board shall appoint a chairman pro tempore, who shall preside at such meetings. Six members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. Pursuant to § 2.1-20.8, board members shall be entitled to reimbursement for their reasonable travel, meal and lodging expenses incurred in attending board meetings or while otherwise engaged in discharging their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers signed by the board chairman or by such other person as the board designates for this purpose. The board shall employ a network manager of the Authority, who shall serve at the pleasure of the board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him as may be delegated to him by the board. The network manager and employees of the Authority shall be compensated in the manner provided by the board.

§ 42.1-80. State Public Records Advisory Council continued; members; chairman and vice-chairman; compensation.

The State Public Records Advisory Council is continued. The Council shall consist of twelve members. The Council membership shall include the Secretary of the Commonwealth, the Librarian of Virginia, the Attorney General, the State Health Commissioner, the Commonwealth Transportation Commissioner, the Director of the Department of Information Technology, the Auditor of Public Accounts, the Executive Secretary of the Supreme Court, the Director of the ~~Council on Information Management~~ *Department of Technology Planning*, or their designated representatives and three members to be appointed by the Governor from the Commonwealth at large. The gubernatorial appointments shall include two clerks of courts of record and a member of a local governing body. Those members appointed by the Governor shall remain members of the Council for a term coincident with that of the Governor making the appointment, or until their successors are appointed and qualified. The Council shall elect annually from its membership a chairman and vice-chairman. Members of the Council shall receive no compensation for their services but shall be paid their reasonable and necessary expenses incurred in the performance of their duties.

2. That on the effective date of this act, employees of the Council on Information Management shall be transferred to the Department of Technology Planning created pursuant to § 2.1-563.28:1 of this act.

3. That wherever the terms "Council on Information Management" and "Director of the Council on Information Management" appear in the Code of Virginia or the Acts of Assembly, they shall mean, respectively, the Department of Technology Planning and the Director of the Department of Technology Planning created pursuant to § 2.1-563.28:1 of this act.

4. That on or before September 15, 1999, the Secretary of Technology shall complete a strategic plan for the operation of the Department of Information Technology and the Department of Technology Planning, including an assessment and plan of action for internal organizations, staffing, and services. The Secretary shall consider recommendations made by the Joint Legislative Audit and Review Commission and published as House Document No. 42 (1998), the Council on Technology Services, and through direct solicitation of DIT and DTP customers. The Secretary shall submit a copy of the plan to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance, and the House Committee on Science and Technology.

5. That Article 7 of Chapter 35.2 (§§ 2.1-563.28 through 2.1-563.35) of Title 2.1 and Chapter 22.12 (§§ 9-145.50 and 9-145.51) of Title 9 of the Code of Virginia are repealed.