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**HOUSE BILL NO. 2168**

Offered January 10, 2001

Prefiled January 10, 2001

*A BILL to amend and reenact §§ 2.1-51.46, 9-253, and 9-263 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.1-253.1, relating to the Center for Innovative Technology.*

Patrons—Nixon and May

Referred to Committee on Science and Technology

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.1-51.46, 9-253, and 9-263 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding a section numbered 2.1-253.1 as follows:**

§ 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, *and the Center for Innovative Technology*. 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.

§ 9-253. Board of directors.

A. The Authority shall be governed by a board of directors consisting of 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 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 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

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59 Title 2.1. The terms of all current board members shall expire on April 7, 1993.

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

66 § 9-253.1. *Appointment of Director.*

67 *The Authority shall be headed by a director who shall also serve as the president of the Center for*  
68 *Innovative Technology. The director shall be appointed by the Governor in accordance with § 2.1-41.2*  
69 *to direct the day-to-day operations and activities of the Authority and carry out the powers and duties*  
70 *conferred upon him. The director shall report to the Secretary of Technology in accordance with*  
71 *§ 2.1-51.46 at such times as required by the Secretary. The director and employees of the Authority*  
72 *shall be compensated in the manner provided by the Governor and shall not be subject to the provisions*  
73 *of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1.*

74 § 9-263. *Auxiliaries.*

75 A. The Governor is hereby authorized to provide for the formation of a nonstock corporation to carry  
76 out the purpose of this chapter. The board of directors of the nonstock corporation shall consist of the  
77 fifteen members of the board of directors of the Authority *and shall serve as an advisory board within*  
78 *the meaning of § 9-6.25 to the Secretary of Technology.* The articles of incorporation of the nonstock  
79 corporation shall provide that upon dissolution the net assets of the corporation shall be transferred to  
80 the Commonwealth of Virginia. The nonstock corporation shall insure that the economic benefits  
81 attributable to the income and property rights arising from any transactions in which the nonstock  
82 corporation is involved are allocated on a basis which is equitable in the reasonable business judgment  
83 of the board of directors, with due account being given to the interest of the citizens of the  
84 Commonwealth and the needs of the nonstock corporation. Any such nonstock corporation shall not be  
85 deemed to be a state or governmental agency, advisory agency, public body or agency or instrumentality  
86 for purposes of Chapters 10 (§ 2.1-110 et seq.), 13 (§ 2.1-153 et seq.), 14 (§ 2.1-173 et seq.), 18  
87 (§ 2.1-327 et seq.), 21 (§ 2.1-340 et seq.), 23 (§ 2.1-359 et seq.), 26 (§ 2.1-377 et seq.) and 40.1  
88 (§ 2.1-639.1 et seq.) of Title 2.1, Chapter 7 (§ 11-35 et seq.) of Title 11 and Chapter 1 (§ 51.1-124.1 et  
89 seq.) of Title 51.1, nor shall any director, officer or employee of any such nonstock corporation or entity  
90 be deemed to be an officer or employee for purposes of Chapter 40.1 of Title 2.1. Notwithstanding the  
91 foregoing, the Auditor of Public Accounts, or his legally authorized representatives, shall annually audit  
92 the financial accounts of the Authority and any such nonstock corporation entity, provided that the  
93 working papers and files of the Auditor of Public Accounts relating to such audits shall not be subject  
94 to the provisions of Chapter 21 of Title 2.1.

95 B. Notwithstanding the provisions of subsection A of this section, as an entity receiving state funds,  
96 any such nonstock corporation shall be subject to periodic external review either (i) under the provisions  
97 of the Legislative Program Review and Evaluation Act (§ 30-64 et seq.) or (ii) by an entity appointed  
98 for that purpose by the Governor. Any such nonstock corporation shall be deemed to be an institution of  
99 higher education within the meaning of §§ 23-3.1 and 23-9.2, but only for the limited purposes therein  
100 stated.