

SENATE BILL 491

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2002 Regular Session
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By: **Senators Hoffman, Currie, Hogan, Kasemeyer, Kittleman, Lawlah,
McFadden, Middleton, Munson, Neall, Ruben, Stoltzfus, Teitelbaum,
and Van Hollen**

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Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 22, 2002

CHAPTER _____

1 AN ACT concerning

2 **Department of Budget and Management - Major Information Technology**
3 **Development Projects**

4 FOR the purpose of prohibiting ~~an agency or a~~ unit of State government from making
5 certain expenditures except under certain circumstances; requiring ~~an agency or~~
6 a unit of State government to designate certain projects in submitting certain
7 requests; authorizing the Chief to change a certain designation by ~~an agency or~~
8 a unit of State government; requiring the Chief to review and approve certain
9 projects; ~~requiring funding for major information technology development~~
10 ~~projects to be provided only through a certain fund~~; creating the Major
11 Information Technology Development Project Fund; specifying the purpose of
12 the Fund and the authorized uses of the Fund; requiring the Governor to submit
13 a certain summary with the budget; authorizing the Chief of Information
14 Technology to review certain projects and specifications for consistency with the
15 statewide information technology master plan; repealing the Information
16 Technology Investment Fund; providing that, effective on a certain date, any
17 unencumbered balance in the Information Technology Investment Fund shall be
18 transferred to the Major Information Technology Development Project Fund;
19 providing that certain existing projects in the Governor's Fiscal 2003 Operating
20 Budget are subject to the provisions of this Act; providing that certain
21 information technology projects may not be implemented without the approval
22 of the Chief and the Secretary of the Department of Budget and Management;
23 requiring the Chief to provide certain assistance, advice, and recommendations
24 to certain units of State government; requiring the Department to submit a
25 certain report by a certain date each year; authorizing the Department of

1 Budget and Management to conduct emergency procurements under certain
2 circumstances; authorizing the Secretary of Budget and Management to create
3 new programs to implement the provisions of this Act; defining certain terms;
4 and generally relating to the Department of Budget and Management and major
5 information technology development projects.

6 BY repealing and reenacting, with amendments,
7 Article - State Finance and Procurement
8 Section 3-402, 3-405, and 3-410
9 Annotated Code of Maryland
10 (2001 Replacement Volume)

11 BY adding to
12 Article - State Finance and Procurement
13 Section 3-410.1 and 3-410.2
14 Annotated Code of Maryland
15 (2001 Replacement Volume)

16 BY repealing
17 Article - State Finance and Procurement
18 Section 7-316
19 Annotated Code of Maryland
20 (2001 Replacement Volume)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - State Finance and Procurement**

24 3-402.

25 (a) In this subtitle the following words have the meanings indicated.

26 (b) "Board" means the Information Technology Board.

27 (c) "Chief" means the Chief of Information Technology.

28 (D) (1) "DEVELOPMENT" MEANS ALL EXPENDITURES FOR A NEW
29 INFORMATION TECHNOLOGY SYSTEM OR AN ENHANCEMENT TO AN EXISTING
30 SYSTEM INCLUDING SYSTEM:

31 (I) PLANNING;

32 (II) PROCUREMENT;

33 (III) CREATION;

34 (IV) INSTALLATION;

1 (V) TESTING; AND

2 (VI) INITIAL TRAINING.

3 (2) "DEVELOPMENT" DOES NOT INCLUDE:

4 (I) ONGOING OPERATING COSTS, SOFTWARE OR HARDWARE
5 MAINTENANCE, ROUTINE UPGRADES, OR, MODIFICATIONS THAT MERELY ALLOW
6 FOR A CONTINUATION OF THE EXISTING LEVEL OF FUNCTIONALITY; OR

7 (II) EXPENDITURES MADE AFTER A NEW OR ENHANCED SYSTEM
8 HAS BEEN LEGALLY ACCEPTED BY THE USER AND IS BEING USED FOR THE BUSINESS
9 PROCESS FOR WHICH IT WAS INTENDED.

10 (E) "FUND" MEANS THE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT
11 PROJECT FUND.

12 [(d)] (F) "Information technology" means all electronic information processing
13 hardware and software, including:

14 (1) maintenance;

15 (2) telecommunications; and

16 (3) associated consulting services.

17 [(e)] (G) "Information technology services" means information provided by
18 electronic means by or on behalf of a unit of State government.

19 (H) "MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT" MEANS
20 ANY INFORMATION TECHNOLOGY DEVELOPMENT PROJECT THAT MEETS ONE OR
21 MORE OF THE FOLLOWING CRITERIA:

22 (1) THE ESTIMATED TOTAL COST OF DEVELOPMENT EQUALS OR
23 EXCEEDS \$1 MILLION;

24 (2) THE PROJECT IS UNDERTAKEN TO SUPPORT A CRITICAL BUSINESS
25 FUNCTION ASSOCIATED WITH THE PUBLIC HEALTH, EDUCATION, SAFETY, OR
26 FINANCIAL WELL-BEING OF THE CITIZENS OF MARYLAND; OR

27 (3) THE SECRETARY DETERMINES THAT THE PROJECT REQUIRES THE
28 SPECIAL ATTENTION AND CONSIDERATION GIVEN TO A MAJOR INFORMATION
29 TECHNOLOGY DEVELOPMENT PROJECT DUE TO:

30 (I) THE SIGNIFICANCE OF THE PROJECT'S POTENTIAL BENEFITS
31 OR RISKS;

32 (II) THE IMPACT OF THE PROJECT ON THE PUBLIC OR LOCAL
33 GOVERNMENTS;

34 (III) THE PUBLIC VISIBILITY OF THE PROJECT; OR

1 (IV) OTHER REASONS AS DETERMINED BY THE SECRETARY.

2 [(f)] (I) "Nonvisual access" means the ability, through keyboard control,
3 synthesized speech, Braille, or other methods not requiring sight, to receive, use and
4 manipulate information, and operate controls necessary to access information
5 technology.

6 (J) "SYSTEMS DEVELOPMENT LIFE CYCLE PLAN" MEANS A PLAN WHICH
7 DEFINES ALL ACTIONS, FUNCTIONS, OR ACTIVITIES TO BE PERFORMED BY ~~AN~~
8 ~~AGENCY OR A~~ UNIT OF STATE GOVERNMENT IN THE DEFINITION, PLANNING,
9 ACQUISITION, DEVELOPMENT, TESTING, IMPLEMENTATION, OPERATION,
10 ENHANCEMENT, AND MODIFICATION OF INFORMATION TECHNOLOGY SYSTEMS.

11 [(g)] (K) "Telecommunications" has the meaning provided in § 3-701 of this
12 title.

13 [(h)] (L) "Resource sharing" means the utilization of a State resource by
14 private industry in exchange for the provision to the State of a communication service
15 or other consideration.

16 (M) (1) "UNIT" MEANS AN AGENCY OR UNIT OF THE EXECUTIVE BRANCH OF
17 STATE GOVERNMENT.

18 (2) "UNIT" DOES NOT INCLUDE STATE INSTITUTIONS OF HIGHER
19 EDUCATION.

20 3-405.

21 (a) (1) A unit of ~~the Executive Branch of the~~ State government may not
22 purchase, lease, or rent information technology unless consistent with the statewide
23 information technology master plan.

24 (2) ~~AN AGENCY OR A UNIT OF THE EXECUTIVE BRANCH OF THE STATE~~
25 ~~GOVERNMENT MAY NOT MAKE EXPENDITURES FOR THE DEVELOPMENT OF MAJOR~~
26 ~~INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS EXCEPT AS PROVIDED IN §§~~
27 ~~3-410.1 AND 3-410.2~~ § 3-410.1 OF THIS SUBTITLE.

28 (b) (1) The [Secretary] CHIEF may review any information technology
29 project for consistency with the statewide information technology master plan.

30 (2) Any information technology project selected for review may not be
31 implemented without the [Secretary's] approval ~~OF THE CHIEF AND THE~~
32 ~~SECRETARY.~~

33 (c) (1) A unit of ~~government in the Executive Branch~~ of State government
34 shall advise the Chief of any information technology proposal involving resource
35 sharing, the exchange of goods or services, or a gift, contribution, or grant of real or
36 personal property.

1 (2) The Chief shall determine if the value of the resources, services, and
2 property to be obtained by the State under the terms of any proposal submitted in
3 accordance with the provisions of paragraph (1) of this subsection equals or exceeds
4 \$100,000.

5 (3) If the value of any proposal submitted in accordance with this
6 subsection equals or exceeds \$100,000 and the Secretary and unit agree to proceed
7 with the proposal, information on the proposal shall be:

8 (i) advertised for a period of at least 30 days in the "Contract
9 Weekly", as published by the Office of the Secretary of State; and

10 (ii) submitted, simultaneously with the advertisement, to the
11 Legislative Policy Committee for a 60-day review and comment period, during which
12 time the Committee may recommend that the proposal be treated as a procurement
13 contract under Division II of this article.

14 (4) Following the period for review and comment by the Legislative
15 Policy Committee under paragraph (3) of this subsection, the proposal is subject to
16 approval by the Board of Public Works.

17 (5) This subsection may not be construed as authorizing an exception
18 from the requirements of Division II of this article for any contract that otherwise
19 would be subject to the State procurement process.

20 3-410.

21 (a) The Chief of Information Technology is established within the Department.

22 (b) The Chief shall be appointed by the Secretary and serves at the Secretary's
23 pleasure.

24 (c) The Chief shall be provided appropriate professional and administrative
25 staff by the Secretary as provided in the budget.

26 (d) The Chief is responsible to the Secretary in carrying out the following
27 duties:

28 (1) developing, maintaining, and enforcing statewide information
29 technology standards, policies, and procedures;

30 (2) providing technical assistance, advice, and recommendations to the
31 Secretary ~~AND ANY AGENCY OR UNIT OF THE STATE GOVERNMENT~~ concerning
32 information technology matters;

33 (3) [reviewing major information technology projects for consistency
34 with statewide plans, policies, and standards;

35 (4)] reviewing each unit's annual project plan to make information and
36 services available to the public over the Internet;

1 [(5)] (4) developing and maintaining a statewide information technology
2 master plan that will:

3 (i) be the basis for the management and direction of information
4 technology within the Executive Branch of State government;

5 (ii) include all aspects of State information technology including
6 telecommunications, data processing, and information management;

7 (iii) consider interstate transfers due to federal legislation and
8 regulation;

9 (iv) ensure that information technology plans and budgets are
10 consistent;

11 (v) ensure that State information technology plans, policies, and
12 standards are consistent with State goals, objectives, and resources, and represent a
13 long-range vision for using information technology to improve the overall
14 effectiveness of State government; and

15 (vi) include standards to assure nonvisual access to the information
16 and services made available to the public over the Internet; and

17 [(6)] (5) adopting by regulation and enforcing nonvisual access
18 standards to be used in the procurement of information technology and the provision
19 of information technology services by or on behalf of units of State government.

20 3-410.1.

21 (A) IN SUBMITTING ~~THEIR~~ ITS INFORMATION TECHNOLOGY PROJECT
22 REQUESTS, ~~AN AGENCY OR A~~ UNIT OF STATE GOVERNMENT SHALL DESIGNATE ~~IF~~
23 THEY PROJECTS WHICH ARE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT
24 PROJECTS.

25 (B) IN REVIEWING ~~AGENCY~~ INFORMATION TECHNOLOGY ~~PROJECTS~~ PROJECT
26 REQUESTS, THE CHIEF MAY CHANGE ~~AN AGENCY'S OR A~~ UNIT'S DESIGNATION OF A
27 MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT.

28 (C) THE CHIEF SHALL REVIEW AND APPROVE MAJOR INFORMATION
29 TECHNOLOGY DEVELOPMENT PROJECTS AND SPECIFICATIONS FOR CONSISTENCY
30 WITH STATEWIDE PLANS, POLICIES, AND STANDARDS, INCLUDING A SYSTEMS
31 DEVELOPMENT LIFE CYCLE PLAN.

32 (D) ~~FUNDING FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT~~
33 ~~PROJECTS SHALL BE PROVIDED ONLY THROUGH THE MAJOR INFORMATION~~
34 ~~TECHNOLOGY DEVELOPMENT PROJECT FUND~~ THE CHIEF SHALL BE RESPONSIBLE
35 FOR OVERSEEING THE IMPLEMENTATION OF MAJOR INFORMATION TECHNOLOGY
36 DEVELOPMENT PROJECTS, REGARDLESS OF FUND SOURCE.

1 (E) EXPENDITURES FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT
2 PROJECTS SHALL BE SUBJECT TO THE APPROVAL OF THE CHIEF WHO SHALL
3 APPROVE EXPENDITURES ONLY WHEN THOSE PROJECTS ARE CONSISTENT WITH
4 STATEWIDE PLANS, POLICIES, AND STANDARDS.

5 (F) (1) THE CHIEF SHALL APPROVE FUNDING FOR MAJOR INFORMATION
6 TECHNOLOGY DEVELOPMENT PROJECTS ONLY WHEN THOSE PROJECTS ARE
7 SUPPORTED BY AN APPROVED SYSTEMS DEVELOPMENT LIFE CYCLE PLAN.

8 (2) THE CHIEF MAY APPROVE FUNDING INCREMENTALLY, CONSISTENT
9 WITH THE SYSTEMS DEVELOPMENT LIFE CYCLE PLAN.

10 3-410.2.

11 (A) IN THIS SECTION, "FUND" MEANS THE MAJOR INFORMATION
12 TECHNOLOGY DEVELOPMENT PROJECT FUND.

13 (B) THERE IS A MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT
14 FUND.

15 (C) THE PURPOSE OF THE FUND IS TO SUPPORT MAJOR INFORMATION
16 TECHNOLOGY DEVELOPMENT PROJECTS.

17 (D) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT
18 SUBJECT TO § 7-302 OF THIS ARTICLE.

19 (E) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE FUND
20 CONSISTS OF:

21 (1) ALL MONEYS APPROPRIATED IN THE STATE BUDGET TO THE FUND;

22 (2) MONEYS RECEIVED FROM THE SALE, LEASE, OR EXCHANGE OF
23 COMMUNICATION SITES OR COMMUNICATION FREQUENCIES FOR INFORMATION
24 TECHNOLOGY PURPOSES AS DETERMINED BY THE CHIEF AND AS APPROVED BY THE
25 SECRETARY;

26 (3) MONEYS RECEIVED AS COMMISSIONS, REBATES, REFUNDS, RATE
27 REDUCTIONS, OR TELECOMMUNICATION BYPASS AGREEMENTS RESULTING FROM
28 INFORMATION TECHNOLOGY SERVICES OR PURCHASES;

29 (4) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THAT
30 PORTION OF MONEYS EARNED FROM PAY PHONE COMMISSIONS TO THE EXTENT
31 THAT THE COMMISSION RATES EXCEED THOSE IN EFFECT IN DECEMBER 1993; ~~AND~~

32 (5) ANY MONEYS RECEIVED AND ACCEPTED AS GIFTS, CONTRIBUTIONS,
33 OR GRANTS AS AUTHORIZED UNDER SUBSECTION (H) OF THIS SECTION; AND

34 (6) GENERAL FUNDS APPROPRIATED FOR MAJOR INFORMATION
35 TECHNOLOGY DEVELOPMENT PROJECTS OF ANY UNIT THAT:

1 (I) ARE UNENCUMBERED AND UNEXPENDED AT THE END OF A
2 FISCAL YEAR;
3 (II) HAVE BEEN ABANDONED; OR
4 (III) HAVE BEEN WITHHELD BY THE GENERAL ASSEMBLY OR THE
5 SECRETARY.

6 (F) THE FUND DOES NOT INCLUDE ANY MONEYS:

7 (1) RECEIVED BY THE DEPARTMENT OF TRANSPORTATION, MARYLAND
8 TRANSPORTATION AUTHORITY, OR MARYLAND PUBLIC BROADCASTING COMMISSION;

9 (2) RECEIVED BY THE JUDICIAL OR LEGISLATIVE BRANCHES OF STATE
10 GOVERNMENT; OR

11 (3) GENERATED FROM PAY PHONE COMMISSIONS THAT ARE CREDITED
12 TO OTHER ACCOUNTS OR FUNDS IN ACCORDANCE WITH OTHER PROVISIONS OF LAW
13 OR ARE AUTHORIZED FOR OTHER PURPOSES IN THE BUDGET OR THROUGH AN
14 APPROVED BUDGET AMENDMENT.

15 (G) (1) THE STATE TREASURER SHALL HOLD AND THE STATE
16 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

17 (2) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
18 MANNER AS OTHER STATE FUNDS.

19 (3) INVESTMENT EARNINGS SHALL ACCRUE TO THE CREDIT OF THE
20 FUND.

21 (H) THE CHIEF:

22 (1) SHALL ADMINISTER THE FUND IN ACCORDANCE WITH THIS
23 SECTION; AND

24 (2) SUBJECT TO THE PROVISIONS OF §§ 2-201 AND 3-405 OF THIS
25 ARTICLE, MAY RECEIVE AND ACCEPT CONTRIBUTIONS, GRANTS, OR GIFTS OF MONEY
26 OR PROPERTY;

27 ~~(3) SHALL BE RESPONSIBLE FOR OVERSEEING THE IMPLEMENTATION~~
28 ~~OF PROJECTS FUNDED BY MONEYS FROM THE FUND;~~

29 ~~(4) SHALL APPROVE FUNDING FOR MAJOR INFORMATION TECHNOLOGY~~
30 ~~PROJECTS ONLY WHEN THOSE PROJECTS ARE CONSISTENT WITH STATEWIDE PLANS,~~
31 ~~POLICIES, AND STANDARDS; AND~~

32 ~~(5) SHALL APPROVE FUNDING FOR MAJOR INFORMATION TECHNOLOGY~~
33 ~~PROJECTS ONLY WHEN THOSE PROJECTS ARE SUPPORTED BY AN APPROVED~~
34 ~~SYSTEMS DEVELOPMENT LIFE CYCLE PLAN. THE CHIEF MAY APPROVE FUNDING~~
35 ~~INCREMENTALLY CONSISTENT WITH THE SYSTEMS DEVELOPMENT LIFE CYCLE~~
36 ~~PLAN.~~

1 (I) THE GOVERNOR SHALL SUBMIT WITH THE BUDGET:

2 (1) A SUMMARY SHOWING THE UNENCUMBERED BALANCE IN THE FUND
3 AS OF THE CLOSE OF THE PRIOR FISCAL YEAR AND A LISTING OF ANY
4 ENCUMBRANCES;

5 (2) AN ESTIMATE OF PROJECTED REVENUE FROM EACH OF THE
6 SOURCES SPECIFIED IN SUBSECTION (E) OF THIS SECTION FOR THE FISCAL YEAR
7 FOR WHICH THE BUDGET IS SUBMITTED; AND

8 (3) A DESCRIPTIVE LISTING OF PROJECTS REFLECTING PROJECTED
9 COSTS FOR THE FISCAL YEAR FOR WHICH THE BUDGET IS SUBMITTED AND ANY
10 ESTIMATED FUTURE YEAR COSTS.

11 (J) EXPENDITURES FROM THE FUND SHALL BE MADE ONLY:

12 (1) IN ACCORDANCE WITH AN APPROPRIATION APPROVED BY THE
13 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

14 (2) THROUGH AN APPROVED BUDGET AMENDMENT UNDER PART II OF
15 SUBTITLE 2 OF THIS TITLE, PROVIDED THAT:

16 ~~(F) A BUDGET AMENDMENT IS SUBMITTED FOR ANY PROJECT NOT~~
17 ~~REQUESTED AS PART OF THE BUDGET SUBMISSION OR FOR ANY PROJECT WHERE~~
18 ~~FOR WHICH THE SCOPE OR COST HAS INCREASED BY MORE THAN 5% OR \$250,000 FOR~~
19 ~~A PROJECT THAT WAS REQUESTED AS PART OF THE BUDGET SUBMISSION; AND~~

20 ~~(H) THE BUDGET AMENDMENT AND SUPPORTING~~
21 ~~DOCUMENTATION HAVE BEEN SHALL BE SUBMITTED TO THE BUDGET COMMITTEES~~
22 ~~ALLOWING A 60-DAY 30-DAY PERIOD FOR THEIR REVIEW AND COMMENT.~~

23 (K) THE FUND MAY BE USED FOR:

24 (1) MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS; OR

25 (2) AS PROVIDED IN SUBSECTION (L) OF THIS SECTION.

26 (L) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION AND EXCEPT FOR
27 THE COST INCURRED IN ADMINISTERING THE FUND, EACH FISCAL YEAR UP TO \$1
28 MILLION OF THIS FUND MAY BE USED FOR:

29 (1) EDUCATIONALLY RELATED INFORMATION TECHNOLOGY PROJECTS;

30 (2) APPLICATION SERVICE PROVIDER INITIATIVES AS PROVIDED FOR IN
31 TITLE 9, SUBTITLE 22 OF THE STATE GOVERNMENT ARTICLE; AND

32 (3) INFORMATION TECHNOLOGY PROJECTS, INCLUDING:

33 (I) PILOTS; AND

34 (II) PROTOTYPES.

1 ~~(L)~~ (M) ANY AGENCY, A UNIT OF STATE GOVERNMENT, OR LOCAL
2 GOVERNMENT MAY SUBMIT A REQUEST TO THE CHIEF TO SUPPORT THE COST OF AN
3 INFORMATION TECHNOLOGY PROJECT WITH MONEYS UNDER SUBSECTION ~~(K)~~ (L) OF
4 THIS SECTION.

5 ~~(M)~~ (N) (1) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE CHIEF SHALL
6 REPORT TO THE GOVERNOR AND TO THE BUDGET COMMITTEES OF THE GENERAL
7 ASSEMBLY AND SUBMIT A COPY OF THE REPORT TO THE GENERAL ASSEMBLY IN
8 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

9 (2) THE REPORT SHALL INCLUDE:

10 (I) THE FINANCIAL STATUS OF THE FUND AND A SUMMARY OF ITS
11 OPERATIONS FOR THE PRECEDING FISCAL YEAR;

12 (II) AN ACCOUNTING FOR THE PRECEDING FISCAL YEAR OF ALL
13 MONEYS FROM EACH OF THE REVENUE SOURCES SPECIFIED IN SUBSECTION (E) OF
14 THIS SECTION, INCLUDING ANY EXPENDITURES MADE FROM THE FUND; AND

15 (III) A DESCRIPTION OF PROJECTS RECEIVING MONEYS FROM THE
16 FUND IN THE PRECEDING FISCAL YEAR AND THE STATUS OF EACH PROJECT WITH A
17 COMPARISON OF ESTIMATED AND ACTUAL COSTS AND ANY KNOWN OR ANTICIPATED
18 CHANGES IN SCOPE OR COSTS.

19 [7-316.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) "Chief of Information Technology" means the Chief of Information
22 Technology within the Department of Budget and Management.

23 (3) "Fund" means the Information Technology Investment Fund.

24 (4) "Information technology" has the meaning provided in § 3-402 of this
25 article.

26 (5) "Secretary" means the Secretary of Budget and Management.

27 (b) There is an Information Technology Investment Fund.

28 (c) (1) The Fund is established to encourage State agencies to be more
29 effective in their use of information technology and to fund information technology
30 initiatives in accordance with the provisions of this section.

31 (2) It is the policy of the State that State agencies use their resources to
32 promote the advancement of information technology. It is the intent of the State that
33 private use of a State resource should further a legitimate public purpose and not be
34 used as a means to compete with the private sector.

35 (d) The Fund is a continuing, nonlapsing special fund that is not subject to §
36 7-302 of this subtitle.

1 (e) Except as provided in subsection (f) of this section and subject to the
2 limitations of subsection (h) of this section, the Fund consists of:

3 (1) all moneys appropriated in the State budget to the Fund;

4 (2) moneys received from the sale, lease, or exchange of communication
5 sites or communication frequencies for information technology purposes as
6 determined by the Chief of Information Technology and as approved by the Secretary;

7 (3) moneys received as commissions, rebates, refunds, rate reductions, or
8 telecommunication bypass agreements resulting from information technology
9 services or purchases;

10 (4) except as provided in subsection (f) of this section, that portion of
11 moneys earned from pay phone commissions to the extent that the commission rates
12 exceed those in effect in December 1993; and

13 (5) any moneys received and accepted as gifts, contributions, or grants
14 as authorized under subsection (i) of this section.

15 (f) The Fund does not include any moneys:

16 (1) received by the Department of Transportation, Maryland
17 Transportation Authority, or Maryland Public Broadcasting Commission;

18 (2) received by the Judicial or Legislative Branches of State government;
19 or

20 (3) generated from pay phone commissions that are credited to other
21 accounts or funds in accordance with other provisions of law or are authorized for
22 other purposes in the budget or through an approved budget amendment.

23 (g) (1) The State Treasurer shall hold and the State Comptroller shall
24 account for the Fund.

25 (2) The Fund shall be invested and reinvested in the same manner as
26 other State funds.

27 (3) Investment earnings shall accrue to the credit of the Fund.

28 (h) (1) The Fund is subject to a ceiling on the amount of moneys that may be
29 credited to the Fund for the fiscal year for which the budget is submitted.

30 (2) The Governor shall include in the annual State budget a proposed
31 ceiling for the Fund.

32 (3) The ceiling on the Fund is set as enacted in the annual State budget
33 bill.

1 (4) Any revenues earned in excess of the ceiling on the amount of moneys
2 that may be credited to the Fund in a fiscal year shall be credited to the General Fund
3 of the State.

4 (i) The Chief of Information Technology:

5 (1) shall administer the Fund in accordance with this section;

6 (2) subject to the provisions of §§ 2-201 and 3-405 of this article, may
7 receive and accept contributions, grants, or gifts of money or property; and

8 (3) shall be responsible for overseeing the implementation of projects
9 funded by moneys from the Fund.

10 (j) The Governor shall submit with the budget:

11 (1) a summary showing the unencumbered balance in the Fund as of the
12 close of the prior fiscal year and a listing of any encumbrances;

13 (2) an estimate of projected revenue from each of the sources specified in
14 subsection (e) of this section for the fiscal year for which the budget is submitted; and

15 (3) a descriptive listing of projects reflecting projected costs for the fiscal
16 year for which the budget is submitted and any estimated future year costs.

17 (k) (1) Expenditures from the Fund shall be made only:

18 (i) in accordance with an appropriation approved by the General
19 Assembly in the annual State budget; or

20 (ii) through an approved budget amendment under Part II of
21 Subtitle 2 of this title, provided that:

22 1. a budget amendment is submitted for any project not
23 requested as part of the budget submission or for any project where the scope or cost
24 has increased for a project that was requested as part of the budget submission; and

25 2. the budget amendment and supporting documentation
26 have been submitted to the budget committees allowing a 60-day period for their
27 review and comment.

28 (2) The ceiling imposed on the Fund, as provided under subsection (h) of
29 this section, may not be increased by budget amendment.

30 (l) Subject to the provisions of subsection (n) of this section and except for the
31 cost incurred in administering the Fund, the Fund may be used for:

32 (1) educationally related information technology projects;

33 (2) State information technology projects, including:

- 1 (i) pilots;
- 2 (ii) prototypes;
- 3 (iii) kiosk systems;
- 4 (iv) graphical user interface for citizen access to governmental
5 services;
- 6 (v) document imaging systems;
- 7 (vi) State and campuswide networks; and
- 8 (vii) the Maryland electronic capital; and

9 (3) application service provider initiatives as provided for in Title 9,
10 Subtitle 22 of the State Government Article.

11 (m) (1) There is an application service provider account in the Fund.

12 (2) The account consists of:

13 (i) moneys dedicated from the Fund for application service
14 provider initiatives;

15 (ii) moneys received as a direct result of application service
16 provider projects, including reimbursements, repayments, interest, or other revenue;
17 and

18 (iii) moneys made available to the account through appropriate
19 federal programs or private contributions.

20 (3) Expenditures from the account shall be made in accordance with
21 subsections (j) and (k) of this section.

22 (n) (1) Any agency or unit of State government may submit a request to the
23 Chief of Information Technology to support the cost of an information technology
24 project with moneys from the Fund.

25 (2) In consultation with the Information Technology Board, established
26 under § 3-406 of this article and subject to the final approval of the Secretary, the
27 Chief of Information Technology shall approve a project as eligible for funding only if
28 the project is consistent with the State information technology master plan.

29 (3) As part of the budget submission required under subsection (j) of this
30 section, the Governor may request use of moneys from the Fund to support any
31 project approved in accordance with this subsection.

32 (o) (1) By November 1 of each year, the Chief of Information Technology
33 shall report to the Governor and to the budget committees of the General Assembly

1 and submit a copy of the report to the General Assembly in accordance with § 2-1246
2 of the State Government Article.

3 (2) The report shall include:

4 (i) the financial status of the Fund and a summary of its
5 operations for the preceding fiscal year;

6 (ii) an accounting for the preceding fiscal year of all moneys from
7 each of the revenue sources specified in subsection (e) of this section, including any
8 revenues in excess of the annual limit that are credited to the General Fund, and
9 expenditures made from the Fund; and

10 (iii) a description of information technology projects receiving
11 moneys from the Fund in the preceding fiscal year and the status of each project with
12 a comparison of estimated and actual costs and any known or anticipated changes in
13 scope or costs.]

14 SECTION 2. AND BE IT FURTHER ENACTED, That, effective July 1, 2002,
15 the unencumbered balance in the Information Technology Investment Fund shall be
16 transferred to the Major Information Technology Development Project Fund.

17 SECTION 3. AND BE IT FURTHER ENACTED, That all projects listed in
18 Volume V of the Governor's Fiscal 2003 Operating Budget are subject to the
19 provisions of this Act. These projects, listed by appropriation and subprogram code
20 are: E00A0402/0001; F10A0406/P001; M00C0105/B501; M00C0105/B502;
21 M00Q0108/T801; N00F0002/6B01; N00F0002/6B02; N00F0002/6B03;
22 K00A0107/a134; Q00A0107/1720; Q00A0107/1730; Q00A0107/1740; Q00A0107/1750;
23 Q00A0107/1760; U00A0502/5201; R62I0034/1201; D80Z0102/1100; D80Z0102/1200;
24 G20J0102/2300; R00A0106/f1xx; and C98F0002/2000.

25 SECTION 4. AND BE IT FURTHER ENACTED, That the Department of
26 Budget and Management is authorized to conduct emergency procurements to obtain
27 the necessary resources to implement the provisions of this Act.

28 SECTION 5. AND BE IT FURTHER ENACTED, That the Secretary of Budget
29 and Management may create new programs to implement the provisions of this Act.

30 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take
31 effect June 1, 2002.

