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HOUSE BILL NO. 1639

Offered January 12, 2011

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A BILL to amend the Code of Virginia by adding in Chapter 22 of Title 2.2 an article numbered 10, consisting of sections numbered 2.2-2336 through 2.2-2353, relating to the Virginia Nanotechnology Authority; established.

Patron—Purkey

Referred to Committee on Science and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 22 of Title 2.2 an article numbered 10, consisting of sections numbered 2.2-2336 through 2.2-2353, as follows:

Article 10.

Virginia Nanotechnology Authority Act.

§ 2.2-2336. Short title; definitions.

A. This article shall be known and may be cited as the Virginia Nanotechnology Authority Act.

B. For purposes of this article, "nanotechnology" means the manipulation of particles at the less-than-100-nanometer scale and "nanotechnology company" means (i) an entity that manufactures, processes, or assembles products incorporating the use of nanotechnology; (ii) a commercial enterprise making sales or providing services to industries described in clause (i); (iii) an enterprise for research and development in nanotechnology, including but not limited to scientific laboratories; (iv) a nonprofit entity operating in the Commonwealth that promotes nanotechnology; or (v) such other businesses as will be in furtherance of the public purposes of this article.

§ 2.2-2337. Declaration of public purpose; Authority created.

A. It is found and determined by the General Assembly that there exists in the Commonwealth of Virginia a need to (i) advise the General Assembly, federal, state, and local agencies, nonprofit organizations, private industry, and other potential users of nanotechnology; (ii) coordinate the research efforts of institutions of higher education in the field of nanotechnology; (iii) define and develop a state strategic plan and core competencies in nanotechnology; (iv) mobilize support for nanotechnology industries to commercialize new products and processes, including organizing assistance for small businesses and supporting select industry sectors and regional cluster efforts; (v) attract research and development (R&D) facilities and contracts from the federal government and private sector, including coordinating efforts to identify and compete for large federal and private sector R&D facilities, tracking federal nanotechnology initiatives and recommending state actions, and developing a statewide strategy to compete for large R&D contracts; and (vi) facilitate and coordinate the marketing, organization, utilization, and development of scientific and technological research and development in the Commonwealth.

B. To achieve the objectives of subsection A, there is created and constituted a political subdivision of the Commonwealth to be known as the "Virginia Nanotechnology Authority." The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matter of public necessity for which public moneys may be spent and private property acquired.

§ 2.2-2338. Board of directors; members; President.

The Authority shall be governed by a board of directors consisting of 16 members appointed for terms of five years by the Governor, two of whom shall be the presidents of major research universities in Virginia and one of whom shall represent the other public colleges or universities in Virginia. After the original appointments, all appointments of presidents of major research universities 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 a director was 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 Executive Director of the State Council of Higher Education for Virginia shall serve on the Board for terms coincident with their terms of office. The Governor shall appoint the nine other members of the Board for terms of four years and they shall be nominated by established industry groups and technology councils within the Commonwealth. These appointees shall include representatives of a variety of nanotechnology companies of different types, sizes, locations, and stages

59 of development. All members of the Board appointed by the Governor shall be confirmed by each  
60 chamber of the General Assembly. After the original appointments, the members of the Board shall be  
61 appointed for terms of four years. Vacancies in the membership of the Board shall be filled by  
62 appointment of the Governor for the unexpired portion of the term. No member of the Board shall be  
63 eligible to serve for more than two successive terms; however, after the expiration of a term of three  
64 years or less, or after the expiration of the remainder of a term to which a director was appointed to  
65 fill a vacancy, two additional terms may be served by such member if appointed thereto. Members of the  
66 Board shall be subject to removal from office in like manner as are state, county, town, and district  
67 officers under the provisions in Article 7 (§ 24.2-230 et seq.) of Chapter 2 of Title 24.2. Immediately  
68 after appointment, the members of the Board shall enter upon the performance of their duties.

69 The Board shall annually elect from among its members a chairman and a vice-chairman. The Board  
70 shall also elect annually a secretary and treasurer, who need not be members of the Board, and may  
71 also elect such other subordinate officers who need not be members of the Board, as it deems proper.  
72 The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board. In the  
73 absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who  
74 shall preside at such meetings.

75 The Board shall employ a President of the Authority, who shall serve at the pleasure of the Board,  
76 to direct the day-to-day operations and activities of the Authority and carry out the powers and duties  
77 conferred upon him by the Board. The President and employees of the Authority shall be compensated  
78 in the manner provided by the Board and shall not be subject to the provisions of the Virginia  
79 Personnel Act (§ 2.2-2900 et seq.).

80 § 2.2-2339. Powers of the Authority.

81 The Authority is granted all powers necessary or convenient for the carrying out of its statutory  
82 purposes, including, but not limited to, the following rights and powers to:

83 1. Sue and be sued, implead and be impleaded, complain and defend in all courts.

84 2. Adopt, use, and alter at will a corporate seal.

85 3. Acquire, purchase, hold, use, lease or otherwise dispose of any project and property, real,  
86 personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out  
87 the purposes of the Authority, and, without limitation of the foregoing, to lease as lessee, any project  
88 and any property, real, personal or mixed, or any interest therein, at such annual rental and on such  
89 terms and conditions as may be determined by the Board and to lease as lessor to any person, any  
90 project and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any  
91 time acquired by the Authority, whether wholly or partially completed, at such annual rental and on  
92 such terms and conditions as may be determined by the Board, and to sell, transfer or convey any  
93 property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or  
94 held by the Authority on such terms and conditions as may be determined by the Board.

95 4. Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and  
96 operate projects.

97 5. Adopt bylaws for the management and regulation of its affairs.

98 6. Establish and maintain satellite offices within the Commonwealth.

99 7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for  
100 the sale of products of, or for the services rendered by, the Authority, at rates to be determined by it for  
101 the purpose of providing for the payment of the expenses of the Authority; the planning, development,  
102 construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects  
103 and properties; the payment of the costs of carrying out its purposes as set forth in § 2.2-2337; the  
104 payment of the principal of and interest on its obligations; and the fulfillment of the terms and  
105 provisions of any agreements made with the purchasers or holders of any such obligations.

106 8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for  
107 the purpose of carrying out the purposes set forth in § 2.2-2337 or of refunding bonds previously issued  
108 by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust  
109 of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed,  
110 tangible or intangible, or any interest therein, and to make agreements with the purchasers or holders  
111 of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the  
112 Authority deems advisable, and in general to provide for the security for the bonds and the rights of  
113 holders thereof.

114 9. Make and enter into all contracts and agreements necessary or incidental to the performance of  
115 its duties, the furtherance of its purposes, and the execution of its powers under this article, including  
116 agreements with any person or federal agency.

117 10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial  
118 experts, investment bankers, superintendents, managers, and such other employees and agents as may be  
119 necessary, and to fix their compensation to be payable from funds made available to the Authority.

120 11. Receive and accept from any federal or private agency, foundation, corporation, association or

121 person grants to be expended in accomplishing the objectives of the Authority, and to receive and accept  
122 from the Commonwealth or any state, and any municipality, county or other political subdivision thereof  
123 and from any other source, aid or contributions of either money, property, or other things of value, to  
124 be held, used, and applied only for the purposes for which such grants and contributions may be made.

125 12. Render advice and assistance and provide services to institutions of higher education and to  
126 other persons providing services or facilities for scientific and technological research or graduate  
127 education, provided that credit toward a degree, certificate or diploma shall be granted only if such  
128 education is provided in conjunction with an institution of higher education authorized to operate in  
129 Virginia.

130 13. Develop, undertake, and provide nanotechnology programs, alone or in conjunction with any  
131 person or federal agency, for scientific and technological research, technology management, continuing  
132 education and in-service training, provided that credit toward a degree, certificate or diploma shall be  
133 granted only if such education is provided in conjunction with an institution of higher education  
134 authorized to operate in Virginia; to foster the utilization of scientific and technological research  
135 information, discoveries and data and to obtain patents, copyrights and trademarks thereon; to  
136 coordinate the scientific and technological research efforts of public institutions and private industry;  
137 and to collect and maintain data on the development and utilization of scientific and technological  
138 research capabilities.

139 14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security  
140 for all or any of the obligations of the Authority.

141 15. Receive, administer, and market any interest in patents, copyrights, and materials that were  
142 patented, copyrighted, or developed by or for state agencies, public institutions of higher education, and  
143 political subdivisions of the Commonwealth. The Authority shall return to the agency, institution, or  
144 political subdivision any revenue in excess of its administrative and marketing costs. When general funds  
145 are used to develop the patent or copyright or material that was potentially patentable or copyrightable,  
146 any state agency, except a public institution of higher education in Virginia, shall return any revenues it  
147 receives from the Authority to the general fund unless the Governor authorizes a percentage of the net  
148 royalties to be shared with the developer of the patented, copyrighted, or potentially patentable or  
149 copyrightable property.

150 16. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

151 § 2.2-2340. Reporting requirement for the Virginia Nanotechnology Authority.

152 The president of the Virginia Nanotechnology Authority shall report annually to the Joint  
153 Commission on Technology and Science, created pursuant to § 30-85, regarding a review of the  
154 Authority's initiatives and projects, its work plan for the year and the expected results therefrom, and an  
155 overview of the results that it has achieved to date, to assist the Commission in its effort to stimulate,  
156 encourage, and promote the development of technology and science in the Commonwealth and sound  
157 public policies related thereto.

158 § 2.2-2341. Form, terms, execution and sale of bonds; use of proceeds; interim receipts or temporary  
159 bonds; lost or destroyed bonds; faith and credit of state and political subdivisions not pledged;  
160 expenses.

161 The Authority shall have the power to issue bonds that shall be dated, shall bear interest at such  
162 rates as shall be fixed by the Authority, shall mature at such time not exceeding 40 years from their  
163 date of issue as may be determined by the Authority, and may be made redeemable before maturity, at  
164 the option of the Authority, at such price or prices and under such terms and conditions as may be fixed  
165 by the Authority prior to the issuance of the bonds. The Authority shall determine the form of bonds and  
166 their manner of execution, and shall fix the denomination of the bonds and the place of payment of  
167 principal and interest, which may be at any bank or trust company within or without the  
168 Commonwealth. The bonds shall be signed by the chairman or vice-chairman of the Authority, or if so  
169 authorized by the Authority, shall bear his facsimile signature, and the official seal of the Authority, or,  
170 if so authorized by the Authority, a facsimile signature thereof shall be impressed or imprinted thereon  
171 and attested by the secretary or any assistant secretary of the Authority, or, if so authorized by the  
172 Authority, with the facsimile signature of such secretary or assistant secretary. Any coupons attached to  
173 bonds issued by the Authority shall bear the signature of the chairman or vice-chairman of the Authority  
174 or a facsimile thereof. In case any officer whose signature or a facsimile of whose signature shall  
175 appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such  
176 signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he  
177 had remained in office until such delivery. The bonds may be issued in coupon or in registered form, or  
178 both, as the Authority may determine, and provision may be made for the registration of any coupon  
179 bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon  
180 bonds of any bonds registered as to both principal and interest, and for the interchange of registered  
181 and coupon bonds. The Authority may sell such bonds in such manner, either at public or private sale,

182 *and for such price, as it may determine will best effect the purposes of this article.*

183 *The proceeds of the bonds of each issue shall be used solely for the purposes, and in furtherance of*  
184 *the powers, of the Authority as may be provided in the resolution authorizing the issuance of such bonds*  
185 *or in the trust agreement authorized by § 2.2-2342 securing the bonds.*

186 *In addition to the above powers, the Authority may issue interim receipts or temporary bonds as*  
187 *provided in § 15.2-2616 and execute and deliver new bonds in place of bonds mutilated, lost or*  
188 *destroyed, as provided in § 15.2-2621.*

189 *No obligation of the Authority shall be deemed to constitute a debt, or pledge of the faith and credit,*  
190 *of the Commonwealth or of any political subdivision thereof, but shall be payable solely from the*  
191 *revenue and other funds of the Authority pledged thereto. All such obligations shall contain on the face*  
192 *thereof a statement to the effect that the Commonwealth, political subdivisions thereof, and the Authority*  
193 *shall not be obligated to pay the same or the interest thereon except from revenues and other funds of*  
194 *the Authority pledged thereto, and that neither the faith and credit nor the taxing power of the*  
195 *Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or*  
196 *the interest on such obligations.*

197 *All expenses incurred in carrying out the provisions of this article shall be payable solely from funds*  
198 *provided under the provisions of this article and no liability shall be incurred by the Authority beyond*  
199 *the extent to which moneys have been provided under the provisions of this article.*

200 *§ 2.2-2342. Trust agreement securing bonds.*

201 *In the discretion of the Authority, any bonds issued under the provisions of this article may be*  
202 *secured by a trust agreement by and between the Authority and a corporate trustee, which may be any*  
203 *trust company or bank having the powers of a trust company within or without the Commonwealth. The*  
204 *trust agreement or the resolution providing for the issuance of the bonds may (i) pledge or assign the*  
205 *revenues to be received and provide for the mortgage of any project or property or any part thereof and*  
206 *(ii) contain provisions for protecting and enforcing the rights and remedies of the bondholders as may*  
207 *be reasonable and proper and not in violation of law, including covenants setting forth the duties of the*  
208 *Authority in relation to the acquisition of property and the planning; development; acquisition;*  
209 *construction; rehabilitation; establishment; improvement; extension; enlargement; maintenance; repair;*  
210 *operation and insurance of the project in connection with which the bonds have been authorized; the*  
211 *rates and fees to be charged; the custody, safeguarding and application of all moneys; and conditions*  
212 *or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust*  
213 *company incorporated under the laws of the Commonwealth, which may act as depository of the*  
214 *proceeds of bonds or of revenue, to furnish the indemnifying bonds or to pledge the securities required*  
215 *by the Authority. Any trust agreement may set forth the rights of action by bondholders. In addition to*  
216 *the foregoing, any trust agreement or resolution may contain such other provisions as the Authority may*  
217 *deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out*  
218 *the provisions of the trust agreement or resolution may be treated as a part of the cost of the operation*  
219 *of the project or projects.*

220 *§ 2.2-2343. Moneys received deemed trust funds.*

221 *All moneys received as proceeds from the sale of bonds shall be deemed to be trust funds to be held*  
222 *and applied solely as provided in this article. The resolution authorizing the bonds of any issue or the*  
223 *trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust*  
224 *company with which, such moneys shall be deposited shall act as a trustee of such moneys and shall*  
225 *hold and apply the same for the purposes hereof, subject to the regulations that this article and the*  
226 *resolution or trust agreement may provide.*

227 *§ 2.2-2344. Proceedings by bondholder or trustee to enforce rights.*

228 *Any holder of bonds issued under the provisions of this article or any of the coupons appertaining*  
229 *thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be*  
230 *restricted by the trust agreement or the resolution authorizing the issuance of such bonds, may either at*  
231 *law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights*  
232 *under the laws of the Commonwealth or granted hereunder or under the trust agreement or resolution,*  
233 *and may enforce and compel the performance of all duties required by this article or by the trust*  
234 *agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing,*  
235 *charging, and collecting of rates, rentals, and other charges.*

236 *§ 2.2-2345. Bonds made securities for investment and deposit.*

237 *Bonds issued by the Authority under the provisions of this article shall be securities in which all*  
238 *public officers and public bodies of the Commonwealth and its political subdivisions, all insurance*  
239 *companies, trust companies, banking associations, investment companies, executors, administrators,*  
240 *trustees, and other fiduciaries may properly and legally invest funds, including capital in their control*  
241 *or belonging to them. Such bonds shall be securities that may properly and legally be deposited with*  
242 *and received by any state or municipal officer or any agency or political subdivision of the*  
243 *Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is*

244 now or may be authorized by law.

245 § 2.2-2346. Revenue refunding bonds; bonds for refunding and for cost of additional projects.

246 The Authority may provide for the issuance of revenue refunding bonds for the purpose of refunding  
 247 any bonds then outstanding that have been issued under the provisions of this article, including the  
 248 payment of any redemption premium thereon and any interest accrued or to accrue to the date of  
 249 redemption of the bonds, and, if deemed advisable by the Authority, for the additional purpose of  
 250 constructing improvements, extensions, or enlargements of the project or projects in connection with  
 251 which the bonds to be refunded shall have been issued. The Authority may provide by resolution for the  
 252 issuance of its revenue bonds for the combined purpose of (i) refunding any bonds then outstanding that  
 253 shall have been issued under the provisions of this article, including the payment of any redemption  
 254 premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, and (ii)  
 255 paying all or any part of the cost of any additional project or any portion thereof. The issuance of the  
 256 bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties  
 257 and obligations of the Authority in respect of the same shall be governed by the provisions of this  
 258 article insofar as they may be applicable.

259 § 2.2-2347. Grants or loans of public or private funds.

260 The Authority may accept, receive, receipt for, disburse, and expend federal and state moneys and  
 261 other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish,  
 262 in whole or in part, any of the purposes of this article. All federal moneys accepted under this section  
 263 shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by  
 264 the United States and as are consistent with state law; and all state moneys accepted under this section  
 265 shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by  
 266 the Commonwealth.

267 § 2.2-2348. Moneys of Authority; examination of books by the Auditor of Public Accounts.

268 All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the  
 269 Authority. Such moneys shall be deposited by the treasurer in one or more banks or trust companies, the  
 270 Fund as established in § 2.2-2353, or other special accounts. All banks and trust companies are  
 271 authorized to give such security for such deposits, if required by the Authority. The moneys in such  
 272 accounts shall be paid out on the warrant or other order of the treasurer of the Authority or of other  
 273 persons as the Authority may authorize to execute such warrants or orders. The Auditor of Public  
 274 Accounts or his legally authorized representatives shall examine the accounts and books of the  
 275 Authority.

276 § 2.2-2349. Exemption from taxes or assessments.

277 The exercise of the powers granted by this article shall be in all respects for the benefit of the  
 278 people of the Commonwealth, for the increase of their commerce and prosperity, and for the  
 279 improvement of their health and living conditions, and as the operation and maintenance of projects by  
 280 the Authority and the undertaking of activities in furtherance of the purpose of the Authority constitute  
 281 the performance of essential governmental functions, the Authority shall not be required to pay any  
 282 taxes or assessments upon any project or any property acquired or used by the Authority under the  
 283 provisions of this article or upon the income therefrom, including sales and use taxes on tangible  
 284 personal property used in the operations of the Authority, and any bonds issued under the provisions of  
 285 this article, their transfer and the income therefrom (including any profit made on the sale thereof) shall  
 286 at all times be free from state and local taxation. The exemption granted in this section shall not be  
 287 construed to extend to persons conducting on the premises of a facility business for which local or state  
 288 taxes would otherwise be required.

289 § 2.2-2350. Exemption of Authority from personnel and procurement procedures.

290 The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public  
 291 Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power  
 292 conferred under this article.

293 § 2.2-2351. Auxiliaries.

294 A. The Governor may provide for the formation of a nonstock corporation to carry out the purposes  
 295 of this article. The board of directors of the nonstock corporation shall consist of the 16 members of the  
 296 Board of the Authority. The articles of incorporation of the nonstock corporation shall provide that  
 297 upon dissolution the net assets of the corporation shall be transferred to the Commonwealth. The  
 298 nonstock corporation shall ensure that the economic benefits attributable to the income and property  
 299 rights arising from any transactions in which the nonstock corporation is involved are allocated on a  
 300 basis that is equitable in the reasonable business judgment of the board of directors, with due account  
 301 being given to the interest of the citizens of the Commonwealth and the needs of the nonstock  
 302 corporation. Any such nonstock corporation shall not be deemed to be a state or governmental agency,  
 303 advisory agency, public body or agency or instrumentality for purposes of Chapters 8 (§ 2.2-800 et  
 304 seq.), 18 (§ 2.2-1800 et seq.), 24 (§ 2.2-2400 et seq.), 29 (§ 2.2-2900 et seq.), 31 (§ 2.2-3100 et seq.), 37

305 (§ 2.2-3700 et seq.), 38 (§ 2.2-3800 et seq.), 43 (§ 2.2-4300 et seq.), 44 (§ 2.2-4400 et seq.), 45  
306 (§ 2.2-4500 et seq.), 46 (§ 2.2-4600 et seq.), and 47 (§ 2.2-4700 et seq.); Chapter 14 (§ 30-130 et seq.)  
307 of Title 30; or Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1. No director, officer or employee of any  
308 such nonstock corporation or entity shall be deemed to be an officer or employee for purposes of  
309 Chapter 31 (§ 2.2-3100 et seq.). Notwithstanding the foregoing, the Auditor of Public Accounts, or his  
310 legally authorized representatives, shall annually audit the financial accounts of the Authority and any  
311 such nonstock corporation entity, provided that the working papers and files of the Auditor of Public  
312 Accounts relating to such audits shall not be subject to the provisions of the Freedom of Information  
313 Act (§ 2.2-3700 et seq.).

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

319 § 2.2-2352. Virginia Nanotechnology Users Network created.

320 The president of the Authority shall establish the Virginia Nanotechnology Users Network to provide  
321 a virtual shared-use laboratory to advance university research, industry application development, and  
322 education involving the synthesis, characterization and fabrication of nanoscale materials, intermediates  
323 and devices, and related program activities. The president shall conduct a feasibility study and develop  
324 a business planning model leading to the establishment of such network, including strategies for  
325 securing investments from the federal government and private entities. On or before January 1, 2012,  
326 the president shall submit the results of such study to the Joint Commission on Technology and Science.

327 § 2.2-2353. Nanotechnology Development Fund; created; purposes; report.

328 A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or  
329 donations from public or private sources, there is created in the state treasury a special nonreverting,  
330 permanent fund, to be known as the Nanotechnology Development Fund (the Fund), to be administered  
331 by the Authority. The Fund shall be established on the books of the Comptroller. Interest earned on  
332 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund  
333 at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall  
334 remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or  
335 loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request  
336 bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the  
337 Authority, bearing his facsimile signature, and the official seal of the Authority.

338 B. Moneys in the Fund shall be used to (i) attract public and private research funding for  
339 institutions of higher education, in order to increase technological and economic development in  
340 Virginia; (ii) commercialize intellectual property at institutions of higher education and nanotechnology  
341 companies in Virginia; (iii) support development of existing companies specializing in nanotechnology  
342 and those companies seeking to perform research and development in nanotechnology; or (iv) attract  
343 and support talented individuals through educational programs, scholarships, and student outreach.

344 C. For purposes of awards, the Fund shall have five components:

345 1. A grant program to provide a flexible source of funding for the creation and generation of talent  
346 in institutions of higher education and, with appropriate connections to vocational-technical schools and  
347 other secondary schools, for student outreach and development. Grants pursuant to this subsection shall  
348 be awarded to institutions of higher education and may be used to establish nanotechnology  
349 postsecondary education programs and a clearinghouse for curriculum development, scholarships, and  
350 student outreach.

351 2. A grant program to provide funding for the promotion of collaborative research applications  
352 between industry and institutions of higher education. Grants pursuant to this subsection shall be  
353 awarded to institutions of higher education, technology-focused organizations, and business entities.

354 3. Discovery grants, not to exceed \$50,000, to support postdoctorate or graduate students working  
355 with industry on nanotechnology projects under the supervision of faculty members. Each discovery  
356 grant shall be matched with a direct or in-kind industry grant in the same amount. However, for good  
357 cause, this requirement may be waived, in whole or in part, by the chairman of the Authority, provided  
358 that such action is reported to the Chairmen of the House Appropriations and Senate Finance  
359 Committees at least 10 days prior to the award or disbursement of such funds for such purpose.

360 4. Collaborative grants, not to exceed \$150,000, to support university research teams working with  
361 industry on collaborative research projects focused on specific application development. Each  
362 collaborative grant shall be matched with an industry grant in the same amount. However, for good  
363 cause, this requirement may be waived, in whole or in part, by the chairman of the Authority, provided  
364 that such action is reported to the Chairmen of the House Appropriations and Senate Finance  
365 Committees at least 10 days prior to the award or disbursement of such funds for such purpose.

366 5. Prototype grants, not to exceed \$250,000, to enable universities and companies to demonstrate

367 whether a prototype is functional, manufacturable, and commercially viable. Each prototype grant shall  
368 be matched with an industry grant in an amount equal to \$2 for every \$1 of such prototype grant.

369 Awards for the matching funds component shall be contingent upon the approval of the institution's  
370 grant proposal for federal or private funds.

371 D. Specific guidelines for the award of funds shall be established and maintained by the Authority, in  
372 consultation with the Virginia Economic Development Partnership and the State Council of Higher  
373 Education for Virginia. These guidelines shall address, at a minimum, the application process,  
374 guidelines to be used by the Board in reviewing proposals, and give special emphasis to fostering  
375 collaboration between institutions of higher education and partnerships between institutions of higher  
376 education and business and industry.

377 The chairman of the Authority shall coordinate the evaluation of proposals, to be conducted by the  
378 Board on a quarterly basis. If consideration of any proposal would present a conflict of interest to any  
379 member of the Board, that member shall recuse himself from the review process.

380 Recommendations on the grants shall be made by representatives from the Virginia Research and  
381 Technology Advisory Commission, the Virginia Economic Development Partnership, and the State  
382 Council of Higher Education for Virginia.

383 E. The chairman of the Authority shall provide the Governor and the General Assembly with an  
384 annual report to include a detailed list of awards committed, the amount of each approved award, a  
385 description of the approved proposals, and the amount of federal or private matching funds anticipated  
386 where applicable, and an assessment of the effectiveness of the Fund in attracting public and private  
387 research funding and increasing technological and economic development in Virginia.