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SENATE BILL NO. 449

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Finance)
(Patrons Prior to Substitute—Senators Norment and Howell)
Senate Amendments in [] — February 12, 2016

A BILL to amend and reenact §§ 2.2-2101, as it is currently effective and as it shall become effective, and 2.2-3711 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 26, consisting of sections numbered 2.2-2484 through 2.2-2490, relating to Virginia Growth and Opportunity Act; creation of Virginia Growth and Opportunity Board and Fund; establishment of regional councils; report.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2101, as it is currently effective and as it shall become effective, and 2.2-3711 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 24 of Title 2.2 an article numbered 26, consisting of sections numbered 2.2-2484 through 2.2-2490, as follows:

§ 2.2-2101. (Effective until July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who 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 of state government that 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 to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; 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 Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; or to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2486.

§ 2.2-2101. (Effective July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who 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 of state government that 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.

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 74 the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the
 75 State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to
 76 members of the Virginia Board of Workforce Development, who shall be appointed as provided for in
 77 § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund
 78 Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth
 79 Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science
 80 Board, who shall be appointed as provided for in § 9.1-1109; ~~or~~ to members of the Southwest Virginia
 81 Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; *or to members of the*
 82 *Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2486.*

83 *Article 26.*

84 *Virginia Growth and Opportunity Act.*

85 **§ 2.2-2484. Definitions.**

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

87 *"Board" means the Virginia Growth and Opportunity Board.*

88 *"Department" means the Department of Housing and Community Development.*

89 *"Fund" means the Virginia Growth and Opportunity Fund.*

90 *"Qualifying region" means a region with a regional council.*

91 *"Region" means one or more planning districts or otherwise defined areas designated as a region by*
 92 *the Board for the purpose of administering grants provided pursuant to this article.*

93 *"Regional activity" means an economic or workforce development-focused collaborative project or*
 94 *program that is (i) endorsed by a regional council; (ii) consistent with the economic growth and*
 95 *diversification plan developed by the regional council; and (iii) carried out, performed on behalf of, or*
 96 *contracted for by two or more localities, political subdivisions, or public bodies corporate and politic*
 97 *within a region.*

98 *"Regional council" means a public body certified by the Board as eligible to receive grants pursuant*
 99 *to this article and that is supported by or affiliated with an existing or newly established organization*
 100 *that engages in collaborative planning or execution of economic or workforce development activities*
 101 *within a region.*

102 **§ 2.2-2485. Virginia Growth and Opportunity Board; membership; terms; compensation.**

103 *A. The Virginia Growth and Opportunity Board is established as a policy board in the executive*
 104 *branch of state government. The purpose of the Board is to promote collaborative regional economic*
 105 *and workforce development opportunities and activities.*

106 *B. The Board shall have a total membership of 22 members that shall consist of eight legislative*
 107 *members, 11 nonlegislative citizen members, and three ex officio members. Members shall be appointed*
 108 *as follows: four members of the House of Delegates, consisting of the Chairman of the House*
 109 *Committee on Appropriations and three members appointed by the Speaker of the House of Delegates;*
 110 *four members of the Senate, consisting of the Chairman of the Senate Committee on Finance and three*
 111 *members appointed by the Senate Committee on Rules; four nonlegislative citizen members to be*
 112 *appointed by the Speaker of the House of Delegates, who shall be from different regions of the*
 113 *Commonwealth and have significant private-sector business experience; four nonlegislative citizen*
 114 *members to be appointed by the Senate Committee on Rules, who shall be from different regions of the*
 115 *Commonwealth and have significant private-sector business experience; and three nonlegislative citizen*
 116 *members to be appointed by the Governor, who shall be from different regions of the Commonwealth*
 117 *and have significant private-sector business experience. At least two of the nonlegislative citizen*
 118 *members appointed by the Governor shall represent areas other than those represented by Planning*
 119 *District 8, 15, 16, or 23. The Governor shall also appoint three Secretaries from the following, who*
 120 *shall serve ex officio with voting privileges: the Secretary of Agriculture and Forestry, the Secretary of*
 121 *Commerce and Trade, the Secretary of Education, the Secretary of Finance, and the Secretary of*

122 Technology. Nonlegislative citizen members shall be citizens of the Commonwealth.

123 C. Legislative members and ex officio members of the Board shall serve terms coincident with their
124 terms of office. After the initial staggering of terms, nonlegislative citizen members shall be appointed
125 for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for
126 the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. No
127 House member appointed by the Speaker of the House shall serve more than four consecutive two-year
128 terms, no Senate member appointed by the Senate Committee on Rules shall serve more than two
129 consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive
130 four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not
131 constitute a term in determining the member's eligibility for reappointment.

132 D. The Board shall elect a chairman and vice-chairman from among its membership. The chairman
133 shall be a nonlegislative citizen member. A majority of the members shall constitute a quorum.

134 E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and
135 nonlegislative citizen members shall receive compensation as provided in § 2.2-2813 for the performance
136 of their duties. All members shall be reimbursed for all reasonable and necessary expenses incurred in
137 the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

138 F. Staff support and technical assistance to the Board and the Governor in carrying out the
139 provisions of this article shall be provided by the agencies of the Secretariats of Commerce and Trade,
140 Education, and Finance.

141 **§ 2.2-2486. Powers and duties of the Board.**

142 A. The Board shall have the power and duty to:

143 1. Designate regions for the purpose of administering this article;
144 2. Certify qualifying regions and regional councils, including developing and implementing guidelines
145 or procedures for such certification;

146 3. Develop and implement guidelines and procedures for the application for and use of any moneys
147 in the Fund;

148 4. Receive and assess applications for awards from the Fund submitted by regional councils and
149 determine the distribution, duration, and termination of awards from the Fund for uses identified in such
150 applications;

151 5. Advise the Governor on the allocation and prioritization of other funds available within the
152 executive branch that may be used to promote economic and workforce development on a regional
153 basis;

154 6. Advise the Governor on the provision of technical assistance regarding the organization and
155 operation of regional councils, the preparation of applications for Fund awards, and the development,
156 validation, and assessment of regional economic growth and diversification plans and regional activities
157 that receive grants from the Fund;

158 7. Provide for the collection and dissemination of information concerning local, state, national, and
159 other best practices related to collaborative regional economic and workforce development initiatives
160 that focus on private-sector growth and opportunity;

161 8. Designate advisory committees with expertise in the industries or clusters around which grant
162 requests are proposed to assist in carrying out the Board's duties;

163 9. Seek independent analytical assistance from outside consultants, including post-grant assessments
164 and reviews to evaluate the results and outcomes of grants awarded pursuant to this article;

165 10. Enter into contracts to provide services to regional councils to assist with prioritization, analysis,
166 planning, and implementation of regional activities;

167 11. Submit to the Governor and the General Assembly an annual report for publication as a report
168 document as provided in the procedures of the Division of Legislative Automated Systems for the
169 processing of legislative documents and reports. The chairman shall submit to the Governor and the
170 General Assembly an annual executive summary of the interim activity and work of the Board no later
171 than December 1. The executive summary shall be submitted for publication as a report document as
172 provided in the procedures of the Division of Legislative Automated Systems for the processing of
173 legislative documents and reports and shall be posted on the General Assembly's website; and

174 12. Perform such other activities and functions as the Governor and General Assembly may direct.

175 B. The development of guidelines and procedures to implement the provisions of this article shall be
176 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

177 **§ 2.2-2487. Virginia Growth and Opportunity Fund.**

178 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
179 Virginia Growth and Opportunity Fund. The Fund shall be established on the books of the Comptroller.
180 All moneys appropriated by the General Assembly for the Fund, and from any other sources, public or
181 private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the
182 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, included

183 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
184 the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on
185 warrants issued by the Comptroller upon written request signed by the chairman of the Board.

186 B. Moneys in the Fund shall be used to facilitate regional collaboration on economic growth and
187 diversification. Specifically, the Fund shall be used to incentivize and encourage cooperation among
188 business, education, and government on regional strategic economic development and workforce
189 development efforts. Available moneys in the Fund shall be allocated as follows:

190 1. A portion of the Fund may be used to support the initial organizational efforts of each regional
191 council, such as capacity-building activities, project prioritization, and studies and analyses related to
192 the development of an economic growth and diversification plan for the region, including identification
193 of existing and prospective gaps in education and skills within the region;

194 2. A portion shall be reserved for specific projects in each region on the basis of a region's share of
195 state population, based on population estimates made by the Weldon Cooper Center for Public Service
196 at the University of Virginia. However, the Board may cancel such reservation in whole or in part if, in
197 the Board's judgment, the region has failed to establish a certified regional council or to otherwise meet
198 the qualifications for grant funding in accordance with this article; and

199 3. A portion shall be competitively awarded on the basis of expected economic impact and outcomes
200 without regard to a region's population.

201 Except for initial grants awarded pursuant to subdivision 1, no more than eight percent of any
202 grants from the Fund to a single regional council shall be used for administrative or planning purposes.

203 C. Public comment shall be received by the Board when making decisions regarding awards from the
204 Fund.

205 D. No more than 90 percent of moneys in the Fund shall be awarded or allocated in any fiscal year.

206 **§ 2.2-2488. Formation of regional councils.**

207 A. A regional council may be established in each region identified by the Board. Regional councils
208 shall solicit, review, and recommend regional activity projects to the Board in accordance with this
209 article.

210 B. When there is no certified regional council in existence in a region, the Board may provide for
211 the formation of a regional council by designating a formation committee chairman and two members
212 from the region. The formation committee chairman shall be a nonlegislative citizen member of the
213 Board, and the chairman may designate up to two additional members of the formation committee. The
214 formation committee shall be responsible for such consultation and recruitment within the region as is
215 likely to result in certification of a regional council for the region. The formation committee chairman
216 and members may serve as officers and members of the regional council.

217 C. A regional council shall include representatives from the education sector, economic and
218 workforce development sector, local government, planning district commissions, nonprofit organizations,
219 and other entities that significantly affect regional economic or workforce development. Membership may
220 include one or more nonlegislative citizen members of the Board from the region. A majority of the
221 members of a regional council shall be from the private sector with demonstrated significant
222 private-sector business experience. A regional council shall be chaired by a citizen member from the
223 region with significant private-sector business experience.

224 D. The Board shall certify that the regional council member selection process, membership,
225 governance, structure, composition, and leadership meet the requirements of this article and the
226 program guidelines and procedures. The Board shall certify that the regional council has adopted
227 bylaws and taken other such steps in its organizational activities and business plan as are necessary or
228 required by Board guidelines and procedures to provide for accountability for and oversight of regional
229 activities funded from the Fund.

230 E. Public comment shall be received by the Board when certifying a regional council.

231 **§ 2.2-2489. Award of grants to regional councils.**

232 A. The Board shall establish guidelines, procedures, and objective criteria for the award and
233 distribution of grants from the Fund to regional councils.

234 B. In order to qualify to receive grants from the Fund, a regional council shall develop an economic
235 growth and diversification plan to (i) promote private-sector growth and opportunity in the region; (ii)
236 identify issues of economic competitiveness for the region, including gaps in education and skills
237 required to meet existing and prospective employer needs within the region; and (iii) outline steps that
238 the collaborating business, education, and government entities in the region will pursue to expand
239 economic opportunity, diversify the economy, and align workforce development activities with the
240 education and skills needed by employers in the region. A regional council shall review such plan not
241 less than biennially while the regional council is receiving grants from the Fund.

242 C. The Board shall only consider those regional activities endorsed by a regional council in its
243 application for grants from the Fund. For any regional activity included in a regional council's
244 application, the regional council shall (i) identify the amount of grants requested and the number of

245 years for which grants are sought; (ii) identify the participating business, education, and government
 246 entities and their respective roles and contributions; (iii) identify the private, local, and other sources of
 247 nonstate funding that the grant from the Fund will assist in generating, including specific amounts
 248 pledged by such sources as of the application date; and (iv) identify the economic impact or other
 249 outcomes that are reasonably expected to result from the proposed regional activity, including timetables
 250 and means of measurement.

251 D. Regional activities eligible for grants from the Fund shall be focused on high-impact,
 252 collaborative projects in a region that promote new job creation, entrepreneurship, and new capital
 253 investment; leverage nonstate resources to enhance collaboration; foster research, development, and
 254 commercialization activities; encourage cooperation among public bodies to reduce costs and
 255 duplication of government services; and promote other economic or workforce development activities
 256 consistent with this article that are authorized by the Board. The Board shall give initial priority to
 257 grant proposals that promote workforce development and other activities focused on eliminating skills
 258 gaps identified in a region's economic growth and diversification plan.

259 E. In determining a regional council's eligibility to receive grants from the Fund, and the amount of
 260 such grants, the Board shall review and score the proposed regional activities. Scores shall be assigned
 261 on the basis of predetermined criteria established by the Board in its guidelines and procedures based
 262 on the following factors:

263 1. The expected economic impact or outcome of the activity, with particular emphasis on goals
 264 identified in the regional council's plan for economic growth and diversification;

265 2. The fiscal resources from non-Fund sources that will be committed to the activity, including local
 266 or federal funds, private contributions, and cost savings expected to be achieved through regional
 267 collaboration;

268 3. The number and percentage of localities, including political subdivisions and bodies corporate and
 269 politic, within the region that are participating in the activity, the portion of the region's population
 270 represented by the participating localities, and the participation of localities that are outside of the
 271 applicant region;

272 4. The compatibility with other projects, programs, or existing infrastructure in a region to maximize
 273 the leverage of grants from the Fund to encourage new collaborative activities;

274 5. The expected economic impact and outcomes of the project and the complexity of the project
 275 relative to the size of the economy of the region or to the population of the participating localities;

276 6. The projected cost savings and other efficiencies generated by the proposed activity, and the local
 277 resources generated by collaboration that have been or will be repurposed to support the activity;

278 7. The character of the regional collaboration, including the nature and extent of the regional effort
 279 involved in developing and implementing the proposed activity, the complexity of the activity, the
 280 prospective impact on relations between and among the affected localities, and the prospective impact
 281 on collaboration between and among business, education, and government entities in the region;

282 8. Interstate, inter-regional, and other beneficial forms of collaboration, if any, that will accompany,
 283 result from, or be encouraged by the activity;

284 9. Efficiency in the administration and oversight of regional activities; and

285 10. Other factors deemed to be appropriate by the Board.

286 F. Each regional council awarded a grant from the Fund shall issue an annual report that shall
 287 include, at a minimum, an assessment of the impact and outcomes from regional activities supported by
 288 grants from the Fund and the region's overall progress in addressing the goals and strategies identified
 289 in the region's plan for economic growth and diversification. Such assessment shall address performance
 290 criteria prescribed in the program guidelines and procedures.

291 G. Subject to the provisions of § 2.2-2488 and this section, once a regional council becomes eligible
 292 for grants from the Fund, the regional council may continue to apply for and receive grants from the
 293 Fund to support economic activities consistent with the regional council's economic growth and
 294 diversification plan in such amounts and for such duration as the Board may determine in accordance
 295 with its guidelines and procedures. The Board may terminate any payments to regional councils that fail
 296 to perform in accordance with this article, the Board's guidelines or procedures, or any conditions
 297 expressly agreed upon as part of a grant award, or for malfeasance. The Board may require the refund
 298 of moneys from the Fund upon such termination. Grants that are terminated shall revert to the Fund for
 299 distribution on an unallocated competitive basis.

300 H. In making Fund recommendations and awards, the Board may consider regional activities that
 301 commenced prior to the enactment of this article, provided that the grant-funded program or project will
 302 expand the scope of, or increase the number of localities participating in, such preexisting activity.

303 I. No regional council may have outstanding grant commitments of more than 25 percent of the total
 304 amount appropriated to the Fund.

305 J. The year for grant payments shall be the Commonwealth's fiscal year following the calendar year

306 *in which the region qualifies, with payments made annually by the Comptroller upon certification by the*
 307 *Board. Grant amounts shall be made at the sole discretion of the Board.*

308 *K. Any grant awarded from the Fund to a regional council shall require matching funds at least*
 309 *equal to the grant. Such matching funds may be from local, regional, federal, or private funds, but shall*
 310 *not include any state general or nongeneral funds, from whatever source.*

311 *L. A decision by the Board to award grants from the Fund shall require an affirmative vote of (i) a*
 312 *majority of the members of the Board who are present and voting, (ii) a majority of the legislative*
 313 *members of the Board from the House of Delegates who are present and voting, (iii) a majority of the*
 314 *legislative members of the Board from the Senate who are present and voting, and (iv) a majority of the*
 315 *members of the Board who are gubernatorial Secretaries who are present and voting. Decisions of the*
 316 *Board shall be final and not subject to review or appeal.*

317 **§ 2.2-2490. Annual audit.**

318 *The accounts of the Board shall be audited annually by the Auditor of Public Accounts or his legally*
 319 *authorized representatives. Copies of the annual audit shall be distributed to the Governor and to the*
 320 *Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.*

321 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

322 A. Public bodies may hold closed meetings only for the following purposes:

323 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
 324 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
 325 officers, appointees, or employees of any public body; and evaluation of performance of departments or
 326 schools of public institutions of higher education where such evaluation will necessarily involve
 327 discussion of the performance of specific individuals. Any teacher shall be permitted to be present
 328 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that
 329 involves the teacher and some student and the student involved in the matter is present, provided the
 330 teacher makes a written request to be present to the presiding officer of the appropriate board.

331 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
 332 involve the disclosure of information contained in a scholastic record concerning any student of any
 333 Virginia public institution of higher education or any state school system. However, any such student,
 334 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to
 335 be present during the taking of testimony or presentation of evidence at a closed meeting, if such
 336 student, parents, or guardians so request in writing and such request is submitted to the presiding officer
 337 of the appropriate board.

338 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
 339 disposition of publicly held real property, where discussion in an open meeting would adversely affect
 340 the bargaining position or negotiating strategy of the public body.

341 4. The protection of the privacy of individuals in personal matters not related to public business.

342 5. Discussion concerning a prospective business or industry or the expansion of an existing business
 343 or industry where no previous announcement has been made of the business' or industry's interest in
 344 locating or expanding its facilities in the community.

345 6. Discussion or consideration of the investment of public funds where competition or bargaining is
 346 involved, where, if made public initially, the financial interest of the governmental unit would be
 347 adversely affected.

348 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
 349 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
 350 negotiating or litigating posture of the public body; and consultation with legal counsel employed or
 351 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
 352 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been
 353 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe
 354 will be commenced by or against a known party. Nothing in this subdivision shall be construed to
 355 permit the closure of a meeting merely because an attorney representing the public body is in attendance
 356 or is consulted on a matter.

357 8. In the case of boards of visitors of public institutions of higher education, discussion or
 358 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
 359 for services or work to be performed by such institution. However, the terms and conditions of any such
 360 gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign
 361 person and accepted by a public institution of higher education in Virginia shall be subject to public
 362 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
 363 (i) "foreign government" means any government other than the United States government or the
 364 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity
 365 created under the laws of the United States or of any state thereof if a majority of the ownership of the
 366 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
 367 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal

368 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual
369 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

370 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum
371 of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia,
372 discussion or consideration of matters relating to specific gifts, bequests, and grants.

373 10. Discussion or consideration of honorary degrees or special awards.

374 11. Discussion or consideration of tests, examinations, or other records excluded from this chapter
375 pursuant to subdivision 4 of § 2.2-3705.1.

376 12. Discussion, consideration, or review by the appropriate House or Senate committees of possible
377 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
378 filed by the member, provided the member may request in writing that the committee meeting not be
379 conducted in a closed meeting.

380 13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
381 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
382 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating
383 position of the governing body or the establishment of the terms, conditions and provisions of the siting
384 agreement, or both. All discussions with the applicant or its representatives may be conducted in a
385 closed meeting.

386 14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
387 activity and estimating general and nongeneral fund revenues.

388 15. Discussion or consideration of medical and mental health records excluded from this chapter
389 pursuant to subdivision 1 of § 2.2-3705.5.

390 16. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
391 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
392 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
393 information and studies or investigations exempted from disclosure under subdivision 6 of § 2.2-3705.3
394 and subdivision 11 of § 2.2-3705.7.

395 17. Those portions of meetings by local government crime commissions where the identity of, or
396 information tending to identify, individuals providing information about crimes or criminal activities
397 under a promise of anonymity is discussed or disclosed.

398 18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
399 of, or information tending to identify, any prisoner who (i) provides information about crimes or
400 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
401 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
402 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

403 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
404 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
405 or emergency service officials concerning actions taken to respond to such matters or a related threat to
406 public safety; discussion of records excluded from this chapter pursuant to subdivision 3 or 4 of
407 § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the
408 security of any facility, building, structure, information technology system, or software program; or
409 discussion of reports or plans related to the security of any governmental facility, building or structure,
410 or the safety of persons using such facility, building or structure.

411 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
412 of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the
413 University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings
414 Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or
415 other ownership interest in an entity, where such security or ownership interest is not traded on a
416 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
417 analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement
418 system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia
419 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest
420 or the future financial performance of the entity, and (ii) would have an adverse effect on the value of
421 the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of
422 the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
423 construed to prevent the disclosure of information relating to the identity of any investment held, the
424 amount invested or the present value of such investment.

425 21. Those portions of meetings in which individual child death cases are discussed by the State Child
426 Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which
427 individual child death cases are discussed by a regional or local child fatality review team established
428 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by

429 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
430 which individual adult death cases are discussed by the state Adult Fatality Review Team established
431 pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are
432 discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

433 22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern
434 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
435 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
436 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
437 proprietary, business-related information pertaining to the operations of the University of Virginia
438 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
439 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
440 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
441 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
442 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
443 Medical School, as the case may be.

444 23. In the case of the Virginia Commonwealth University Health System Authority, discussion or
445 consideration of any of the following: the acquisition or disposition of real or personal property where
446 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;
447 operational plans that could affect the value of such property, real or personal, owned or desirable for
448 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
449 contracts for services or work to be performed by the Authority; marketing or operational strategies
450 where disclosure of such strategies would adversely affect the competitive position of the Authority;
451 members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications
452 or evaluations of other employees. This exemption shall also apply when the foregoing discussions occur
453 at a meeting of the Virginia Commonwealth University Board of Visitors.

454 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
455 the Department of Health Professions to the extent such discussions identify any practitioner who may
456 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

457 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
458 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
459 by or on behalf of individuals who have requested information about, applied for, or entered into
460 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.)
461 of Title 23 is discussed.

462 26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created
463 pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et
464 seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless
465 E-911 service.

466 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
467 Professional and Occupational Regulation, Department of Health Professions, or the Board of
468 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
469 a decision or meetings of health regulatory boards or conference committees of such boards to consider
470 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
471 requested by either of the parties.

472 28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of
473 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
474 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
475 responsible public entity concerning such records.

476 29. Discussion of the award of a public contract involving the expenditure of public funds, including
477 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
478 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
479 the public body.

480 30. Discussion or consideration of grant or loan application records excluded from this chapter
481 pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the
482 Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment
483 Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

484 31. Discussion or consideration by the Commitment Review Committee of records excluded from
485 this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to commitment as
486 sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

487 32. [Expired.]

488 33. Discussion or consideration of confidential proprietary records and trade secrets excluded from
489 this chapter pursuant to subdivision 18 of § 2.2-3705.6.

490 34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless

491 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets
 492 excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

493 35. Discussion or consideration by the State Board of Elections or local electoral boards of voting
 494 security matters made confidential pursuant to § 24.2-625.1.

495 36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
 496 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from
 497 this chapter pursuant to subdivision A 2 a of § 2.2-3706.

498 37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards
 499 Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of
 500 § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship
 501 award, review and consider scholarship applications and requests for scholarship award renewal, and
 502 cancel, rescind, or recover scholarship awards.

503 38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter
 504 pursuant to subdivision 1 of § 2.2-3705.6.

505 39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
 506 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
 507 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
 508 Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment
 509 Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant
 510 to subdivision 25 of § 2.2-3705.7.

511 40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of
 512 § 2.2-3705.6.

513 41. Discussion or consideration by the Board of Education of records relating to the denial,
 514 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of
 515 § 2.2-3705.3.

516 42. Those portions of meetings of the Virginia Military Advisory Council or any commission created
 517 by executive order for the purpose of studying and making recommendations regarding preventing
 518 closure or realignment of federal military and national security installations and facilities located in
 519 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
 520 appointed by a local governing body, during which there is discussion of records excluded from this
 521 chapter pursuant to subdivision 12 of § 2.2-3705.2.

522 43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
 523 records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

524 44. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
 525 records excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

526 45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
 527 of records excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.

528 46. Discussion or consideration of personal and proprietary information that are excluded from the
 529 provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of
 530 § 10.1-104.7. This exemption shall not apply to the discussion or consideration of records that contain
 531 information that has been certified for release by the person who is the subject of the information or
 532 transformed into a statistical or aggregate form that does not allow identification of the person who
 533 supplied, or is the subject of, the information.

534 47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia
 535 Alcoholic Beverage Control Authority of records excluded from this chapter pursuant to subdivision 1 of
 536 § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

537 48. *Discussion or development of grant proposals by a regional council established pursuant to*
 538 *Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth*
 539 *and Opportunity Board.*

540 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
 541 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
 542 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
 543 motion that shall have its substance reasonably identified in the open meeting.

544 C. Public officers improperly selected due to the failure of the public body to comply with the other
 545 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
 546 obtain notice of the legal defect in their election.

547 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
 548 more public bodies, or their representatives, but these conferences shall be subject to the same
 549 procedures for holding closed meetings as are applicable to any other public body.

550 E. This section shall not be construed to (i) require the disclosure of any contract between the
 551 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1

552 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
553 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
554 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
555 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
556 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
557 of such bonds.

558 **2. That the initial appointments of nonlegislative citizen members to the Virginia Growth and**
559 **Opportunity Board shall be staggered as follows: (i) one member for two years, two members for**
560 **three years, and one member for one year appointed by the Speaker of the House of Delegates; (ii)**
561 **two members for two years, one member for three years, and one member for four years**
562 **appointed by the Senate Committee on Rules; and (iii) one member for two years, one member for**
563 **three years, and one member for four years appointed by the Governor.**

564 **3. That the Chairmen of the Senate Committee on Finance and the House Committee on**
565 **Appropriations shall convene a working group to assist the Virginia Growth and Opportunity**
566 **Board in the development of guidelines and procedures to implement the provisions of this act.**
567 **The working group shall include representatives of state and regional economic development**
568 **organizations, regional workforce entities, planning district commissions, manufacturing and small**
569 **business associations, local government, and other such entities and individuals as the Chairmen**
570 **deems appropriate. The working group shall conclude its work on the guidelines by October 15,**
571 **2016, but shall remain constituted and shall convene upon the call of the Chairmen to provide**
572 **guidance on future changes to the guidelines and procedures or other activities related to the**
573 **implementation of this act.**

574 **[4. That it is the intent of the General Assembly that by fiscal year 2019, the Board shall create**
575 **an affiliated entity, funded wholly with non-state sources, to provide staff support and provide**
576 **other services necessary for the Board to carry out the duties pursuant to this Act.]**