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**HOUSE BILL NO. 2245**

Offered January 11, 2017

Prefiled January 11, 2017

*A BILL to amend and reenact §§ 2.2-2221, 2.2-3705.6, 2.2-3711, and 23.1-3130 through 23.1-3133 of the Code of Virginia, to amend the Code of Virginia by adding in Article 8 of Chapter 31 of Title 23.1 a section numbered 23.1-3134, and to repeal § 2.2-2221.2 of the Code of Virginia, relating to the Virginia Research Investment Committee.*

Patron—Jones

Referred to Committee on General Laws

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

**1. That §§ 2.2-2221, 2.2-3705.6, 2.2-3711, and 23.1-3130 through 23.1-3133 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 8 of Chapter 31 of Title 23.1 a section numbered 23.1-3134 as follows:**

**§ 2.2-2221. Powers of the Authority.**

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

1. Sue and be sued, implead and be impleaded, complain and defend in all courts.
2. Adopt, use, and alter at will a corporate seal.
3. Acquire, purchase, hold, use, lease or otherwise dispose of any project and property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and, without limitation of the foregoing, to lease as lessee, any project and any property, real, personal or mixed, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board and to lease as lessor to any person, any project and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board, and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the board of the Authority.
4. Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and operate projects.
5. Adopt bylaws for the management and regulation of its affairs.
6. Establish and maintain satellite offices within the Commonwealth.
7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for the sale of products of or for the services rendered by, the Authority, at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties, the payment of the costs accomplishing its purposes set forth in § 2.2-2219, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations.
8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2219 or of refunding bonds previously issued by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any interest therein, and to make agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority deems advisable, and in general to provide for the security for the bonds and the rights of holders thereof.
9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes and the execution of its powers under this article, including agreements with any person or federal agency.
10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority.
11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants to be expended in accomplishing the objectives of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof

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59 and from any other source, aid or contributions of either money, property, or other things of value, to be  
60 held, used and applied only for the purposes for which such grants and contributions may be made.

61 12. Render advice and assistance, and to provide services, to institutions of higher education and to  
62 other persons providing services or facilities for scientific and technological research or graduate  
63 education, provided that credit towards a degree, certificate or diploma shall be granted only if such  
64 education is provided in conjunction with an institution of higher education authorized to operate in  
65 Virginia.

66 13. Develop, undertake and provide programs, alone or in conjunction with any person or federal  
67 agency, for scientific and technological research, technology management, continuing education and  
68 in-service training, provided that credit towards a degree, certificate or diploma shall be granted only if  
69 such education is provided in conjunction with an institution of higher education authorized to operate in  
70 Virginia; to foster the utilization of scientific and technological research information, discoveries and  
71 data and to obtain patents, copyrights and trademarks thereon; to coordinate the scientific and  
72 technological research efforts of public institutions and private industry and to collect and maintain data  
73 on the development and utilization of scientific and technological research capabilities. The universities  
74 set forth in § 2.2-2220 shall be the principal leading universities in the research institutes.

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

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

86 16. ~~Develop~~ *Provide assistance to the Virginia Research Investment Committee related to the*  
87 *development of the Commonwealth Research and Technology Strategic Roadmap, pursuant to §*  
88 *2.2-2221.2 23.1-3134, for the Commonwealth to use to identify research areas worthy of institutional*  
89 *focus and Commonwealth investment in order to promote commercialization and economic development*  
90 *efforts in the Commonwealth.*

91 17. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's  
92 state institutions of higher education, the private sector, federal labs, and not-for-profit organizations to  
93 improve research and development commercialization efforts.

94 18. Receive and review annual reports from state institutions of higher education regarding the  
95 progress of projects funded through the Commonwealth Research Initiative or the Commonwealth  
96 Research and Commercialization Fund. The Authority shall develop guidelines, methodologies, and  
97 criteria for the reports. The Authority shall aggregate the reports and submit an annual omnibus report  
98 on the status of research and development initiatives in the Commonwealth to the Governor and the  
99 chairmen of the Senate Finance Committee, the House Appropriations Committee, the Senate Committee  
100 on General Laws and Technology, the House Committee on Science and Technology, and the Joint  
101 Commission on Technology and Science.

102 19. In consultation with the Secretary of Technology, develop guidelines for the application, review,  
103 and award of funds from the Commonwealth Research Commercialization Fund pursuant to  
104 § 2.2-2233.1. These guidelines shall address, at a minimum, the application process and shall give  
105 special emphasis to fostering collaboration between institutions of higher education and partnerships  
106 between institutions of higher education and business and industry.

107 20. Exclusively, or with any other person, form and otherwise develop, own, operate, govern, and  
108 otherwise direct the disposition of assets of, or any combination thereof, separate legal entities, on any  
109 such terms and conditions and in any such manner as may be determined by the Board, provided that  
110 such separate legal entities shall be formed solely for the purpose of managing and administering any  
111 assets disposed of by the Authority. These legal entities may include limited liability companies, limited  
112 partnerships, charitable foundations, real estate holding companies, investment holding companies,  
113 nonstock corporations, and benefit corporations. Any entities created by the Authority shall be operated  
114 under the governance of the Authority. The Board shall be provided with quarterly performance reports  
115 for all governed entities. The articles of incorporation, partnership, or organization for these entities shall  
116 provide that, upon dissolution, the assets of the entities that are owned on behalf of the Commonwealth  
117 shall be transferred to the Authority. The legal entity shall ensure that the economic benefits attributable  
118 to the income and property rights arising from any transactions in which the entity is involved are  
119 allocated on a basis that is equitable in the reasonable business judgment of the Board, with due account  
120 being given to the interest of the citizens of the Commonwealth and the needs of the formed entity. No

legal entity shall be deemed to be a state or governmental agency, advisory agency, or public body or instrumentality. No director, officer, or employee of any such entity shall be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Notwithstanding the foregoing, the Auditor of Public Accounts or his legally authorized representatives shall annually audit the financial accounts of the Authority and any such entity, provided that the working papers and records of the Auditor of Public Accounts relating to such audits shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

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

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary nature furnished by a supplier of charitable gaming supplies to the

Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the

public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Records submitted as Information relating to a grant or loan application, or accompanying a grant or loan application, for an award from submitted to the Virginia Research Investment Fund Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

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

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

437 8. In the case of boards of visitors of public institutions of higher education, discussion or  
438 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts  
439 for services or work to be performed by such institution. However, the terms and conditions of any such  
440 gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign  
441 person and accepted by a public institution of higher education in Virginia shall be subject to public  
442 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,  
443 (i) "foreign government" means any government other than the United States government or the  
444 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity  
445 created under the laws of the United States or of any state thereof if a majority of the ownership of the  
446 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the  
447 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal  
448 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual  
449 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

454 11. Discussion or consideration of tests, examinations, or other information excluded from this  
455 chapter pursuant to subdivision 4 of § 2.2-3705.1.

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

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

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

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

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

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

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

483 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific  
484 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement  
485 or emergency service officials concerning actions taken to respond to such matters or a related threat to  
486 public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 of  
487 § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the  
488 security of any facility, building, structure, information technology system, or software program; or  
489 discussion of reports or plans related to the security of any governmental facility, building or structure,



or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

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

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

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

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

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

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

551 requested by either of the parties.

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

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

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

564 31. Discussion or consideration by the Commitment Review Committee of information excluded from  
565 this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as  
566 sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

567 32. [Expired.]

568 33. Discussion or consideration of confidential proprietary information and trade secrets excluded  
569 from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
570 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et  
571 seq.).

572 34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless  
573 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets  
574 excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

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

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

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

585 38. Discussion or consideration by the Virginia Port Authority of information excluded from this  
586 chapter pursuant to subdivision 1 of § 2.2-3705.6.

587 39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
588 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,  
589 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
590 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment  
591 Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter  
592 pursuant to subdivision 25 of § 2.2-3705.7.

593 40. Discussion or consideration of information excluded from this chapter pursuant to subdivision 3  
594 of § 2.2-3705.6.

595 41. Discussion or consideration by the Board of Education of information relating to the denial,  
596 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of  
597 § 2.2-3705.3.

598 42. Those portions of meetings of the Virginia Military Advisory Council or any commission created  
599 by executive order for the purpose of studying and making recommendations regarding preventing  
600 closure or realignment of federal military and national security installations and facilities located in  
601 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization  
602 appointed by a local governing body, during which there is discussion of information excluded from this  
603 chapter pursuant to subdivision 11 of § 2.2-3705.2.

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

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

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

610 46. Discussion or consideration of personal and proprietary information that are excluded from the  
611 provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of  
612 § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain

information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

48. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 *or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.*

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

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

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

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

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

#### **§ 23.1-3130. Definitions.**

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

"Board" means a ~~policy board in the executive branch of government that (i) was created by the 2016 Session of the General Assembly, (ii) has a legislatively stated purpose of promoting collaborative regional economic and workforce development opportunities and activities, and (iii) has membership consisting of members of the House of Delegates, members of the Senate, members of the Governor's Cabinet, and nonlegislative citizen appointees the Virginia Growth and Opportunity Board established pursuant to § 2.2-2485.~~

"Board of Trustees" means the Board of Trustees of the Virginia Retirement System established pursuant to § 51.1-124.20.

"Committee" means the Virginia Research Investment Committee established pursuant to § 23.1-3132.

"Council" means the State Council of Higher Education for Virginia.

"Fund" means the Virginia Research Investment Fund established in § 23.1-3131.

"Roadmap" means the Commonwealth Research and Technology Strategic Roadmap developed pursuant to § 23.1-3134.

#### **§ 23.1-3131. Virginia Research Investment Fund.**

A. There is hereby created in the state treasury a special nonreverting revolving fund to be known as the Virginia Research Investment Fund. The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other sources public or private, shall be paid into the state treasury and credited to the Fund. Interest and other income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund, including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. 1. Notwithstanding any other provision of law, the General Assembly may specifically designate that certain moneys appropriated to the Fund be invested, reinvested, and managed by the Board of the ~~Virginia Retirement System Trustees~~ as provided in § 51.1-124.38. The State Treasurer shall not be held liable for losses suffered by the Virginia Retirement System on investments made under the authority of this subsection.

2. No more than \$4 million of moneys so invested, net of any administrative fee assessed pursuant to

subsection E of § 51.1-124.38, may be awarded through grants or loans in a fiscal year for any purpose permitted by this article. At the direction of the Committee, the State Comptroller may annually request a disbursement of \$4 million from the moneys invested by the Board of the ~~Virginia Retirement System Trustees~~, to be held with other moneys in the Fund not subject to such investment. At the end of each fiscal year, if less than \$4 million of such annual allocation is awarded as grants or loans in a calendar year, the Comptroller shall return the remainder of the annual \$4 million allocation to the Board of the ~~Virginia Retirement System Trustees~~ for reinvestment pursuant to § 51.1-124.38.

3. Any loans awarded pursuant to this article shall be paid by the Comptroller from the \$4 million annual allocation set forth in subdivision 2. The recipient of a loan shall repay the loan pursuant to the terms set forth by the Committee. At the end of each fiscal year, the Comptroller shall return any repayments received from loan recipients to the Board of the ~~Virginia Retirement System Trustees~~ for reinvestment pursuant to § 51.1-124.38.

C. 1. Moneys in the Fund shall be used ~~solely primarily~~ for grants and loans to (i) ~~promote research and development excellence in the Commonwealth;~~ (ii) foster innovative and collaborative research, development, and commercialization efforts in the Commonwealth in projects and programs with a high potential for economic development and job creation opportunities; ~~(iii)~~ (ii) position the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; ~~(iv)~~ (iii) attract and effectively recruit and retain eminent researchers to enhance research superiority at public institutions of higher education; and ~~(v)~~ (iv) encourage cooperation and collaboration among *public institutions of higher education research institutions*, and with the private sector, in areas and with activities that foster economic development and job creation in the Commonwealth. ~~Areas~~

2. *Grants and loans from the Fund for innovative research, development, and commercialization efforts, projects, and programs shall (i) be awarded in areas of focus for awards shall be those areas identified in the Commonwealth Research and Technology Strategic Roadmap, and shall include but not be limited to the biosciences, personalized medicine, cybersecurity, data analytics, and other areas designated in the general appropriation act; (ii) be awarded solely to public institutions of higher education in the Commonwealth or collaborations between the public institutions of higher education and private entities; and (iii) require a match of funds at least equal to the amount awarded.*

3. *Moneys in the Fund may be used to pay administrative fees assessed by the Board of Trustees for its services in investing Fund moneys pursuant to § 51.1-124.38.*

D. The disbursement of grants and loans, *and the payment of administrative costs and service fees,* from the Fund shall be made by the State Comptroller at the written request of the Committee.

**§ 23.1-3132. Virginia Research Investment Committee established; report.**

A. There is hereby established the Virginia Research Investment Committee to (i) *promote research and development excellence in the Commonwealth;* (ii) *provide guidance, and coordination as deemed necessary, to existent efforts to support research in the Commonwealth with commercial potential;* (iii) *lead the effort to develop and update the Roadmap;* and (iv) evaluate and award grants and loans from the Fund pursuant to the provisions of this article.

B. The Committee shall consist of ~~the following members:~~ the Director of the Council,; the Secretary of Technology,; the Secretary of Finance,; the staff directors of the House Committee on Appropriations and the Senate Committee on Finance, ~~one who shall serve ex officio with voting privileges; and four nonlegislative citizen member members of the Board to be appointed as follows: one appointed by the Speaker of the House, one nonlegislative citizen member appointed by the Senate Committee on Rules, and two nonlegislative citizen members appointed by the Governor. If the Board exists, the nonlegislative citizen members appointed by the Speaker of the House, the Senate Committee on Rules, and the Governor shall be nonlegislative citizen members of the Board.~~

C. Ex officio members shall serve terms coincident with their terms of office. ~~If the Board does not exist, nonlegislative citizen members shall be appointed to a term of four years, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. If the Board exists, nonlegislative citizen members shall serve terms coincident with their terms on the Board.~~

D. The Director of the Council shall serve as the chairman of the Committee.

E. The Committee shall report to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance no later than November 1 of each year. The report shall include details about awards made from the Fund in the immediately preceding fiscal year and updates on the research, development, and commercialization efforts resulting from such awards.

**§ 23.1-3133. Award from Virginia Research Investment Fund.**

A. 1. The Council, in consultation with the Committee, shall establish *the initial guidelines, procedures, and objective criteria for (i) the application for and award of grants and loans from the Fund; (ii) the review, certification of scientific merits, and scoring or prioritization of applications for grants and loans from the Fund; and (iii) the evaluation and award by the Committee of grants and loans from the Fund. After the adoption of the initial guidelines, procedures, and criteria, the Committee*

shall be responsible for maintaining, administering, updating, and approving the guidelines, procedures, and criteria, with the assistance of staff of the Council.

2. Such guidelines, procedures, and criteria, and any updates thereto, shall be submitted to the House Committee on Appropriations and the Senate Committee on Finance.

B. The guidelines, procedures, and criteria for the award of grants and loans shall include, but not be limited to, requirements that applicants demonstrate and that the reviewers and the Committee consider other:

1. Other grants, awards, loans, or funds awarded to the proposed program or project by the Commonwealth and shall require an applicant to indicate other;

2. Other applications for state grants, awards, loans, or funds currently pending at the time of the application for an award from the Fund. The criteria shall consider the; and

3. The potential of the program or project for which a grant or loan is sought to (i) culminate in the commercialization of research; (ii) culminate in the formation or spin-off of viable bioscience, biotechnology, cybersecurity, genomics, or similar companies; (iii) promote the build-out of scientific areas of expertise in science and technology; (iv) promote applied research and development in the areas of focus identified in the Roadmap; (v) provide modern facilities or infrastructure for research and development; (vi) result in significant capital investment and job creation; or (vii) promote collaboration among the public institutions of higher education in the Commonwealth. Such criteria shall also require that the program or project for which a grant or loan is sought be related to an area identified in the Commonwealth Research Technology Strategic Roadmap.

B. Grants and loans may be awarded to public institutions of higher education in the Commonwealth or collaborations between public institutions of higher education in the Commonwealth and private entities. Any award from the Fund shall require a match of funds at least equal to the amount of the award.

C. Applications Upon establishment or update of the guidelines, procedures, and criteria, the Committee shall (i) announce publicly these policies and principles, (ii) open and initiate the application process, and (iii) receive applications for grants and loans from the Fund shall be received by the Council in accordance with the procedures developed pursuant to subsection A B.

D. Upon confirmation that an application is complete, the staff of the Council shall forward the application to an entity with recognized science and technology expertise for a review and certification of the scientific merits of the proposal, including a scoring or prioritization of applicant programs and projects deemed viable by the reviewing entity. Such entities include, but are not limited to, the Virginia Biosciences Health Research Corporation, the Innovation and Entrepreneurship Investment Authority, the Virginia Academy of Science, Engineering and Medicine, or any other entity deemed appropriate by the Council, including a scientific advisory committee created by the Council for the sole purpose of reviewing one or more applications received pursuant to this article.

~~D. Any proposal~~ E. Upon an application receiving a favorable evaluation pursuant to subsection C D, the Council shall be forwarded forward the application, along with the scoring or prioritization, to the Committee for further review and a decision whether to award the proposal a grant or loan from the Fund.

F. 1. Upon receipt of a reviewed application, the Committee shall evaluate the application in accordance with the criteria developed in subsection B, taking into account the review, scoring, or prioritization received in accordance with subsection D. The Committee shall then decide whether to approve the application for an award of a grant or loan from the Fund.

2. The award of a grant or loan from the Fund shall be subject to any terms and conditions set forth by the Committee for the award.

3. All decisions by the Committee shall be final and not subject to further review or appeal.

4. The Governor may announce any award approved by the Committee.

#### **§ 23.1-3134. Commonwealth Research and Technology Strategic Roadmap.**

A. The Committee shall develop the Commonwealth Research and Technology Strategic Roadmap, a comprehensive research and technology strategic roadmap for the Commonwealth to identify research areas worthy of economic development and institutional focus. The goal of the Roadmap shall be to develop a cohesive and comprehensive framework through which to encourage collaboration between the Commonwealth's institutions of higher education, private sector industries, and economic development entities in order to focus on the complete life cycle of research, development, and commercialization. The framework shall serve as a means to (i) identify the Commonwealth's key industry sectors in which investments in technology should be made by the Commonwealth; (ii) identify basic and applied research opportunities in these sectors that exhibit commercial promise; (iii) encourage commercialization and economic development activities in the Commonwealth in these sectors; and (iv) help ensure that all investments of public funds in the Commonwealth in basic and applied research are made prudently in focused areas for projects with significant potential for

797 commercialization and economic growth in the Commonwealth. In developing the Roadmap, the  
798 Committee shall:

799 1. Consult with the vice presidents for research at public institutions of higher education in the  
800 Commonwealth regarding the strategic plan for each research university in the Commonwealth in order  
801 to identify common themes;

802 2. Consult with public institutions of higher education in the Commonwealth, the Innovation and  
803 Entrepreneurship Investment Authority, the Virginia Economic Development Partnership, and any other  
804 entity deemed relevant to catalog the Commonwealth's assets in order to identify the areas of research  
805 and development in which the Commonwealth has a great likelihood of excelling in applied research  
806 and commercialization;

807 3. Make recommendations for the alignment of research and development and economic growth in  
808 the Commonwealth, identifying the industry sectors in which the Commonwealth should focus its  
809 research, development, investment, and economic development efforts;

810 4. Establish a process for maintaining an inventory of the Commonwealth's current research and  
811 development endeavors in both the public and private sector that can be used to attract research and  
812 commercialization excellence in the Commonwealth;

813 5. Make recommendations to the Six-Year Capital Outlay Plan Advisory Committee established  
814 pursuant to § 2.2-1516 regarding capital construction needs at state institutions of higher education  
815 necessary to excel in basic and applied research in identified industry sectors; and

816 6. Develop a policy regarding the ownership and licensing of intellectual property developed through  
817 the use of awards from the Fund, the Commonwealth Research Commercialization Fund, and any other  
818 awards of public funds in the Commonwealth for research and commercialization efforts.

819 B. In developing the Roadmap, the Committee shall solicit feedback from the Innovation and  
820 Entrepreneurship Investment Authority and its Research and Technology Investment Advisory Committee;  
821 public and private institutions of higher education in the Commonwealth; other state entities that award  
822 public funds for research and commercialization efforts, federal research and development assets in the  
823 Commonwealth, including but not limited to the NASA Langley Research Center, the NASA Wallops  
824 Flight Center, the Naval Surface Warfare Center, Dahlgren Division, and the Thomas Jefferson National  
825 Accelerator Facility (Jefferson Lab); regional technology councils in the Commonwealth; the private  
826 sector; and any other entity identified by the Committee.

827 C. The Committee shall review and update the Roadmap at least once every three years.

828 D. The Committee shall submit the Roadmap, and any subsequent updates, to the Governor and the  
829 Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the Joint  
830 Commission on Technology and Science.

831 2. That § 2.2-2221.2 of the Code of Virginia is repealed effective January 1, 2018.

832 3. That § 2.2-2221 of the Code of Virginia, as amended by this act, and § 23.1-3134 of the Code of  
833 Virginia, as created by this act, shall become effective on January 1, 2018.

834 4. That the Virginia Research Investment Committee shall collaborate with the Innovation and  
835 Entrepreneurship Investment Authority in updating the current Commonwealth Research and  
836 Technology Strategic Roadmap, which shall be submitted prior to January 1, 2018, pursuant to  
837 subsection D of § 2.2-2221.2 of the Code of Virginia. The Innovation and Entrepreneurship  
838 Investment Authority shall provide interim updates to the Virginia Research Investment  
839 Committee regarding its work on the Commonwealth Research and Technology Strategic  
840 Roadmap.