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SENATE BILL NO. 1371**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance
on February 2, 2017)

(Patron Prior to Substitute—Senator Saslaw)

A BILL to amend and reenact §§ 2.2-2221, 2.2-3705.6, 2.2-3711, 23.1-203, 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.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2221, 2.2-3705.6, 2.2-3711, 23.1-203, 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 and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made.

12. Render advice and assistance, and to provide services, to institutions of higher education and to

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

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

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

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

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

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

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

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

105 20. Exclusively, or with any other person, form and otherwise develop, own, operate, govern, and
106 otherwise direct the disposition of assets of, or any combination thereof, separate legal entities, on any
107 such terms and conditions and in any such manner as may be determined by the Board, provided that
108 such separate legal entities shall be formed solely for the purpose of managing and administering any
109 assets disposed of by the Authority. These legal entities may include limited liability companies, limited
110 partnerships, charitable foundations, real estate holding companies, investment holding companies,
111 nonstock corporations, and benefit corporations. Any entities created by the Authority shall be operated
112 under the governance of the Authority. The Board shall be provided with quarterly performance reports
113 for all governed entities. The articles of incorporation, partnership, or organization for these entities shall
114 provide that, upon dissolution, the assets of the entities that are owned on behalf of the Commonwealth
115 shall be transferred to the Authority. The legal entity shall ensure that the economic benefits attributable
116 to the income and property rights arising from any transactions in which the entity is involved are
117 allocated on a basis that is equitable in the reasonable business judgment of the Board, with due account
118 being given to the interest of the citizens of the Commonwealth and the needs of the formed entity. No
119 legal entity shall be deemed to be a state or governmental agency, advisory agency, or public body or
120 instrumentality. No director, officer, or employee of any such entity shall be deemed to be an officer or
121 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

183 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity
184 as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private
185 entity, including balance sheets and financial statements, that are not generally available to the public
186 through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity
187 where if such information was made public prior to the execution of an interim agreement or a
188 comprehensive agreement, the financial interest or bargaining position of the public or private entity
189 would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be
190 excluded from the provisions of this chapter, the private entity shall make a written request to the
191 responsible public entity:

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

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

195 (3) Stating the reasons why protection is necessary.

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

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

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

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

223 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential
224 proprietary information that is not generally available to the public through regulatory disclosure or
225 otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21
226 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of
227 confidentiality from the franchising authority, to the extent the information relates to the bidder's,
228 applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies
229 or implementation of improvements, where such new services, technologies, or improvements have not
230 been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such
231 information were made public, the competitive advantage or financial interests of the franchisee would
232 be adversely affected.

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

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

241 14. Information of a proprietary nature furnished by a supplier of charitable gaming supplies to the
242 Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

243 15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board
244 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

306 released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the
307 applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its
308 staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision
309 shall apply to grants that are consistent with the powers of and in furtherance of the performance of the
310 duties of the Commission pursuant to § 3.2-3103.

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

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

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

317 c. Stating the reasons why protection is necessary.

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

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

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

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

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

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

337 (3) Stating the reasons why protection is necessary.

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

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

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

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

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

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

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

364 c. Stating the reasons why protection is necessary.

365 28. ~~Records submitted as Information relating to a grant or loan application, or accompanying a~~
366 ~~grant or loan application, for an award from submitted to the Virginia Research Investment Fund~~
367 ~~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 Virginia Research Investment 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.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or

429 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
430 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been
431 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe
432 will be commenced by or against a known party. Nothing in this subdivision shall be construed to
433 permit the closure of a meeting merely because an attorney representing the public body is in attendance
434 or is consulted on a matter.

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

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

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

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

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

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

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

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

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

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

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

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

489 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
490 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 requested by either of the parties.

28. Discussion or consideration of information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are

552 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
553 responsible public entity concerning such records.

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

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

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

565 32. [Expired.]

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

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

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

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

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

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

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

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

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

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

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

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

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

608 46. Discussion or consideration of personal and proprietary information that are excluded from the
609 provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of
610 § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
611 information that has been certified for release by the person who is the subject of the information or
612 transformed into a statistical or aggregate form that does not allow identification of the person who
613 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.

§ 23.1-203. Duties of Council.

The Council shall:

1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of the existing institutions of higher education, each public institution's six-year plan, and such other matters as the Council deems appropriate. The Council shall revise such plan at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

2. Review and approve or disapprove any proposed change in the statement of mission of any public institution of higher education and define the mission of all newly created public institutions of higher education. The Council shall report such approvals, disapprovals, and definitions to the Governor and the General Assembly at least once every six years. No such actions shall become effective until 30 days after adjournment of the session of the General Assembly next following the filing of such a report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission statement adopted by the General Assembly or empower the Council to affect, either directly or indirectly, the selection of faculty or the standards and criteria for admission of any public institution of higher education, whether relating to academic standards, residence, or other criteria. Faculty selection and student admission policies shall remain a function of the individual public institutions of higher education.

3. Study any proposed escalation of any public institution of higher education to a degree-granting level higher than that level to which it is presently restricted and submit a report and recommendation to the Governor and the General Assembly relating to the proposal. The study shall include the need for and benefits or detriments to be derived from the escalation. No such institution shall implement any such proposed escalation until the Council's report and recommendation have been submitted to the General Assembly and the General Assembly approves the institution's proposal.

4. Review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be organized numerically by level of enrollment and shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop estimates of the number of degrees to be awarded by each public institution of higher education and

675 include those estimates in its reports of enrollment projections. The student admissions policies for such
676 institutions and their specific programs shall remain the sole responsibility of the individual governing
677 boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies
678 with comprehensive community colleges as required by § 23.1-907.

679 5. Review and approve or disapprove all new undergraduate or graduate academic programs that any
680 public institution of higher education proposes.

681 6. Review and require the discontinuance of any undergraduate or graduate academic program that is
682 presently offered by any public institution of higher education when the Council determines that such
683 academic program is (i) nonproductive in terms of the number of degrees granted, the number of
684 students served by the program, the program's effectiveness, and budgetary considerations or (ii)
685 supported by state funds and unnecessarily duplicative of academic programs offered at other public
686 institutions of higher education. The Council shall make a report to the Governor and the General
687 Assembly with respect to the discontinuance of any such academic program. No such discontinuance
688 shall become effective until 30 days after the adjournment of the session of the General Assembly next
689 following the filing of such report.

690 7. Review and approve or disapprove the establishment of any department, school, college, branch,
691 division, or extension of any public institution of higher education that such institution proposes to
692 establish, whether located on or off the main campus of such institution. If any organizational change is
693 determined by the Council to be proposed solely for the purpose of internal management and the
694 institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing
695 in this subdivision shall be construed to authorize the Council to disapprove the establishment of any
696 such department, school, college, branch, division, or extension established by the General Assembly.

697 8. Review the proposed closure of any academic program in a high demand or critical shortage area,
698 as defined by the Council, by any public institution of higher education and assist in the development of
699 an orderly closure plan, when needed.

700 9. Develop a uniform, comprehensive data information system designed to gather all information
701 necessary to the performance of the Council's duties. The system shall include information on
702 admissions, enrollment, self-identified students with documented disabilities, personnel, programs,
703 financing, space inventory, facilities, and such other areas as the Council deems appropriate. When
704 consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.),
705 the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the
706 Council, acting solely or in partnership with the Virginia Department of Education or the Virginia
707 Employment Commission, may contract with private entities to create de-identified student records in
708 which all personally identifiable information has been removed for the purpose of assessing the
709 performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

710 10. In cooperation with public institutions of higher education, develop guidelines for the assessment
711 of student achievement. Each such institution shall use an approved program that complies with the
712 guidelines of the Council and is consistent with the institution's mission and educational objectives in
713 the development of such assessment. The Council shall report each institution's assessment of student
714 achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

715 11. In cooperation with the appropriate state financial and accounting officials, develop and establish
716 uniform standards and systems of accounting, recordkeeping, and statistical reporting for public
717 institutions of higher education.

718 12. Review biennially and approve or disapprove all changes in the inventory of educational and
719 general space that any public institution of higher education proposes and report such approvals and
720 disapprovals to the Governor and the General Assembly. No such change shall become effective until 30
721 days after the adjournment of the session of the General Assembly next following the filing of such
722 report.

723 13. Visit and study the operations of each public institution of higher education at such times as the
724 Council deems appropriate and conduct such other studies in the field of higher education as the Council
725 deems appropriate or as may be requested by the Governor or the General Assembly.

726 14. Provide advisory services to each accredited nonprofit private institution of higher education
727 whose primary purpose is to provide collegiate or graduate education and not to provide religious
728 training or theological education on academic, administrative, financial, and space utilization matters.
729 The Council may review and advise on joint activities, including contracts for services between public
730 and such private institutions of higher education or between such private institutions of higher education
731 and any agency or political subdivision of the Commonwealth.

732 15. Adopt such policies and regulations as the Council deems necessary to implement its duties
733 established by state law. Each public institution of higher education shall comply with such policies and
734 regulations.

735 16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and
736 Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's

academic and disciplinary record to a student's parent.

17. Require each institution of higher education formed, chartered, or established in the Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or revocation of approval to operate in the Commonwealth. An institution may ensure the preservation of student transcripts by binding agreement with another institution of higher education with which it is not corporately connected or in such other way as the Council may authorize by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth revoked, the Council, through its director, may take such action as is necessary to secure and preserve the student transcripts until such time as an appropriate institution accepts all or some of the transcripts. Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts or authorize disclosure of student records except as may otherwise be authorized by law.

18. Require the development and submission of articulation, dual admissions, and guaranteed admissions agreements between associate-degree-granting and baccalaureate public institutions of higher education.

19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee Studying Higher Education Funding Policies for each public institution of higher education.

20. In consultation with each public institution of higher education, develop a one-year uniform certificate of general studies program to be offered at each comprehensive community college. Such program shall ensure that a comprehensive community college student who completes the one-year certificate program is eligible to transfer all credits earned in academic subject coursework to a baccalaureate public institution of higher education upon acceptance to such baccalaureate institution.

21. Cooperate with the Board of Education in matters of interest to both public elementary and secondary schools and public institutions of higher education, particularly in connection with coordination of the college admission requirements, coordination of teacher training programs with the public school programs, and the Board's Six-Year Educational Technology Plan for Virginia. The Council shall encourage public institutions of higher education to design programs that include the skills necessary for the successful implementation of such Plan.

22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship Committee in the implementation and administration of the Brown v. Board of Education Scholarship Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments, institutions, and agencies in carrying out its duties.

24. Serve as the coordinating council for public institutions of higher education.

25. Serve as the planning and coordinating agency for all postsecondary educational programs for all health professions and occupations and make recommendations, including those relating to financing, for providing adequate and coordinated educational programs to produce an appropriate supply of properly trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the requirements of this subdivision. All state departments and agencies shall cooperate with the Council in the execution of its responsibilities under this subdivision.

26. Carry out such duties as the Governor may assign to it in response to agency designations requested by the federal government.

27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each public institution of higher education in carrying out its duties.

28. Insofar as practicable, seek the assistance and advice of each public institution of higher education in fulfilling its duties and responsibilities.

29. *Assist Develop the Commonwealth Research and Technology Strategic Roadmap pursuant to the provisions of § 23.1-3134 to be submitted to the Virginia Research Investment Committee for approval, and otherwise assist the Virginia Research Investment Committee with the administration of the Virginia Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter 31.*

Article 8.

Virginia Research Investment ~~Fund~~ Committee.

§ 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

798 pursuant to § 51.1-124.20.

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

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

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

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

804 **§ 23.1-3131. Virginia Research Investment Fund.**

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

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

817 2. No more than \$4 million of moneys so invested, net of any administrative fee assessed pursuant to
818 subsection E of § 51.1-124.38, may be awarded through grants or loans in a fiscal year for any purpose
819 permitted by this article. At the direction of the Committee, the State Comptroller may annually request
820 a disbursement of \$4 million from the moneys invested by the Board of the ~~Virginia Retirement System~~
821 ~~Trustees~~, to be held with other moneys in the Fund not subject to such investment. At the end of each
822 fiscal year, if less than \$4 million of such annual allocation is awarded as grants or loans in a calendar
823 year, the Comptroller shall return the remainder of the annual \$4 million allocation to the Board of the
824 ~~Virginia Retirement System Trustees~~ for reinvestment pursuant to § 51.1-124.38.

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

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

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

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

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

851 **§ 23.1-3132. Virginia Research Investment Committee; report.**

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

857 B. The Committee shall consist of ~~the following members:~~ the Director of the Council, the Secretary
858 of Technology, the Secretary of Finance, *and* the staff directors of the House Committee on
859 Appropriations and the Senate Committee on Finance, ~~one~~ *all of whom 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 of Delegates, 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. *Vacancies shall be filled in the same manner as the original appointments.*

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 from the applicant 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.

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

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

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

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

929 **§ 23.1-3134. Commonwealth Research and Technology Strategic Roadmap.**

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

943 B. The Roadmap shall be used to determine areas of focus for awards by the Committee from the
944 Fund and by the Innovation and Entrepreneurship Investment Authority from the Commonwealth
945 Research Commercialization Fund established pursuant to § 2.2-2233.1. Awards from such funds may be
946 made for research activities related to areas of focus other than those identified in the Roadmap only
947 upon a written finding by the respective awarding entity that it is in the Commonwealth's best interest to
948 deviate from the areas set forth in the Roadmap.

949 C. The Council shall develop the Roadmap and submit it to the Committee for review and approval.
950 In developing the Roadmap, the Council shall select and oversee a panel of independent experts who
951 shall:

952 1. Consult with the chief research officers at public institutions of higher education in the
953 Commonwealth regarding the strategic plan for each institution in order to identify common themes;

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

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

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

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

968 6. Solicit feedback from the Committee, the Research and Technology Investment Advisory
969 Committee; public and private institutions of higher education in the Commonwealth; members of the
970 National Academies of Sciences, Engineering and Medicine; members of the Virginia Academy of
971 Science, Engineering and Medicine; federal research and development assets in the Commonwealth;
972 regional technology councils in the Commonwealth; the Virginia Economic Development Partnership;
973 the Board; and the private sector.

974 In selecting the panel of experts pursuant to this subsection, the Council shall ensure that no
975 individuals on the panel are involved, nor have been involved within the past three years, with the
976 application, review, or award process governed by § 2.2-2233.1 or 23.1-3133.

977 D. The Council shall review the Roadmap and make recommendations regarding its update at least
978 once every three years. Such recommended updates shall be submitted to the Committee for review and
979 approval.

980 E. The Committee shall submit a draft of the Roadmap to the Governor and the Chairmen of the
981 Senate Finance Committee, the House Appropriations Committee, and the Joint Commission on
982 Technology and Science at least 30 days prior to Committee voting to approve the Roadmap or any

983 *subsequent updates. The Committee shall also submit the approved Roadmap, and any subsequent*
984 *updates, to the Governor and the Chairmen of the Senate Finance Committee, the House Appropriations*
985 *Committee, and the Joint Commission on Technology and Science.*
986 **2. That § 2.2-2221.2 of the Code of Virginia is repealed effective January 1, 2018.**
987 **3. That § 2.2-2221 of the Code of Virginia, as amended by this act, and § 23.1-3134 of the Code of**
988 **Virginia, as created by this act, shall become effective on January 1, 2018.**
989 **4. That the State Council of Higher Education for Virginia and the Virginia Research Investment**
990 **Committee shall collaborate with the Innovation and Entrepreneurship Investment Authority in**
991 **updating the current Commonwealth Research and Technology Strategic Roadmap, which shall be**
992 **submitted prior to January 1, 2018, pursuant to subsection D of § 2.2-2221.2 of the Code of**
993 **Virginia. The Innovation and Entrepreneurship Investment Authority shall provide interim**
994 **updates to the Virginia Research Investment Committee regarding its work on the Commonwealth**
995 **Research and Technology Strategic Roadmap.**