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SENATE BILL NO. 1356

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend and reenact §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308.016, 18.2-334.3, 18.2-340.22, 19.2-389, 37.2-304, 58.1-3, 58.1-302, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4004, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4010, 58.1-4011, 58.1-4019, 58.1-4020, 58.1-4020.1, 58.1-4021, 58.1-4022, 58.1-4023, 58.1-4027, 59.1-148.3, 59.1-364, and 59.1-569 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, by adding a section numbered 58.1-4015.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4042; relating to Virginia Lottery Board; rename as Virginia Lottery and Sports Wagering Commission; Problem Gambling Treatment and Support Fund; penalties.*

Patron—Wagner

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308.016, 18.2-334.3, 18.2-340.22, 19.2-389, 37.2-304, 58.1-3, 58.1-302, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4004, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4010, 58.1-4011, 58.1-4019, 58.1-4020, 58.1-4020.1, 58.1-4021, 58.1-4022, 58.1-4023, 58.1-4027, 59.1-148.3, 59.1-364, and 59.1-569 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, by adding a section numbered 58.1-4015.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4042, as follows:

§ 2.2-419. Definitions.

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

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 4. A stock, bond, note, or other investment interest in an entity;
 5. A receipt given for the payment of money or other property;
 6. A right in action;
 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 8. A loan or forgiveness of indebtedness;
 9. A work of art, antique, or collectible;
 10. An automobile or other means of personal transportation;
 11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
 12. An honorarium or compensation for services;
 13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
 14. A promise or offer of employment; or
 15. Any other thing of value that is pecuniary or compensatory in value to a person.
- "Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.
- "Compensation" means:
1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or

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59 2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of
60 indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of
61 value, for services rendered or to be rendered.

62 "Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the
63 amount actually expended for the expenses and it is substantiated by an itemization of expenses.

64 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in
65 § 30-355.

66 "Executive action" means the proposal, drafting, development, consideration, amendment, adoption,
67 approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or
68 official of legislation or executive orders issued by the Governor. "Executive action" includes
69 procurement transactions.

70 "Executive agency" means an agency, board, commission, or other body in the executive branch of
71 state government. "Executive agency" includes the State Corporation Commission, the Virginia Workers'
72 Compensation Commission, and the Virginia Lottery and Sports Wagering Department.

73 "Executive official" means:

74 1. The Governor;
75 2. The Lieutenant Governor;
76 3. The Attorney General;
77 4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General
78 other than a clerical or secretarial employee;

79 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each
80 executive agency; or

81 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,
82 however selected.

83 "Expenditure" means:

84 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
85 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything
86 of value for any purpose;

87 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person
88 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
89 persons;

90 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct
91 payment of expenses incurred at the request or suggestion of the lobbyist;

92 4. A payment that directly benefits an executive or legislative official or a member of the official's
93 immediate family;

94 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses
95 of an employee for or in connection with direct communication with an executive or legislative official;

96 6. A payment for or in connection with soliciting or urging other persons to enter into direct
97 communication with an executive or legislative official; or

98 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
99 this chapter.

100 "Expenditure" does not mean a campaign contribution properly received and reported pursuant to
101 Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

102 "Fair market value" means the price that a good or service would bring between a willing seller and
103 a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the
104 actual price paid for the good or service shall be given consideration.

105 "Gift" means anything of value, including any gratuity, favor, discount, entertainment, hospitality,
106 loan, forbearance, or other item having monetary value, and includes services as well as gifts of
107 transportation, local travel, lodgings, and meals, whether provided in-kind or by purchase of a ticket,
108 payment in advance, or reimbursement after the expense has been incurred.

109 "Gift" does not mean:

110 1. Printed informational or promotional material;

111 2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or
112 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
113 tax purposes;

114 3. A devise or inheritance;

115 4. A gift of a value of less than \$20;

116 5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or
117 pass is used;

118 6. Any food or beverages provided to an individual at an event at which the individual is performing
119 official duties related to his public service;

120 7. Any food and beverages received at or registration or attendance fees waived for any event at

which the individual is a featured speaker, presenter, or lecturer;

8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service;

9. Any gift to an individual's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law;

10. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman;

11. Travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or

12. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered.

"Immediate family" means (i) the spouse and (ii) any other person who resides in the same household as the executive or legislative official and who is a dependent of the official.

"Legislative action" means:

1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the General Assembly or a legislative official;

2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by the General Assembly; or

3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.

"Legislative official" means:

1. A member or member-elect of the General Assembly;

2. A member of a committee, subcommittee, commission, or other entity established by and responsible to the General Assembly or either house of the General Assembly; or

3. Persons employed by the General Assembly or an entity established by and responsible to the General Assembly.

"Lobbying" means:

1. Influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official; or

2. Solicitation of others to influence an executive or legislative official.

"Lobbying" does not mean:

1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

182 2. Any school division;
183 3. Any organization or entity that exercises governmental powers that is established pursuant to an
184 interstate compact; or
185 4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of
186 this definition.
187 "Local government employee" means a public employee of a local government.
188 "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company,
189 syndicate, business trust, estate, company, corporation, association, club, committee, organization, or
190 group of persons acting in concert.
191 "Procurement transaction" means all functions that pertain to obtaining all goods, services, or
192 construction on behalf of an executive agency, including description of requirements, selection and
193 solicitation of sources, preparation and award of contract, and all phases of contract administration
194 where the stated or expected value of the contract is \$5 million or more.
195 "Secretary" means the Secretary of the Commonwealth.
196 "Value" means the actual cost or fair market value of an item or items, whichever is greater. If the
197 fair market value cannot be determined, the actual amount paid for the item or items shall be given
198 consideration.
199 "Widely attended event" means an event at which at least 25 persons have been invited to attend or
200 there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
201 individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
202 from a particular industry or profession, or (iii) who represent persons interested in a particular issue.
203 **§ 2.2-2905. Certain officers and employees exempt from chapter.**
204 The provisions of this chapter shall not apply to:
205 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
206 2. Officers and employees of the Supreme Court and the Court of Appeals;
207 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
208 house thereof is required or not;
209 4. Officers elected by popular vote or by the General Assembly or either house thereof;
210 5. Members of boards and commissions however selected;
211 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
212 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
213 notaries public;
214 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
215 special inquiries, investigations, or examinations on its behalf;
216 8. The presidents and teaching and research staffs of state educational institutions;
217 9. Commissioned officers and enlisted personnel of the National Guard;
218 10. Student employees at institutions of higher education and patient or inmate help in other state
219 institutions;
220 11. Upon general or special authorization of the Governor, laborers, temporary employees, and
221 employees compensated on an hourly or daily basis;
222 12. County, city, town, and district officers, deputies, assistants, and employees;
223 13. The employees of the Virginia Workers' Compensation Commission;
224 14. The officers and employees of the Virginia Retirement System;
225 15. Employees whose positions are identified by the State Council of Higher Education and the
226 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the
227 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of
228 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The
229 Library of Virginia, and approved by the Director of the Department of Human Resource Management
230 as requiring specialized and professional training;
231 16. Employees of the Virginia Lottery and Sports Wagering Department;
232 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
233 and service industries who have a human resources classification of industry worker;
234 18. Employees of the Virginia Commonwealth University Health System Authority;
235 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for
236 such employees shall be subject to the review and approval of the Board of Visitors of the University of
237 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
238 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
239 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
240 20. In executive branch agencies the employee who has accepted serving in the capacity of chief
241 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
242 assistant for policy or administration. An employee serving in either one of these two positions shall be
243 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve

in this exempt capacity;

21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

22. Officers and employees of the Virginia Port Authority;

23. Employees of the Virginia College Savings Plan;

24. Directors of state facilities operated by the Department of Behavioral Health and Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;

26. Employees of the Virginia Indigent Defense Commission;

27. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23.1-809; and

28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority.

§ 2.2-3114. Disclosure by state officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery Board and Sports Wagering Commission and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery Board and Sports Wagering Commission, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the

transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

§ 2.2-3202. Eligibility for transitional severance benefit.

A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System, (vi) who is employed by the Virginia Lottery and Sports Wagering Department, (vii) who is employed by the Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is employed at a state educational institution as faculty (including, but not limited to, presidents and teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia Personnel Act pursuant to subdivision 3, 20, 23, or 28 of § 2.2-2905; and (a) for whom reemployment with the Commonwealth is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

B. An otherwise eligible employee whose position is contingent upon project grants as defined in the Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit conferred by this chapter unless the funding source had agreed to assume all financial responsibility therefor in its written contract with the Commonwealth.

C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular vote shall not be eligible for the transitional severance benefit conferred by this chapter.

D. Eligibility shall commence on the date of involuntary separation.

E. Persons authorized by § 2.2-106 or 51.1-124.22 to appoint a chief administrative officer or the administrative head of an agency shall adhere to the same criteria for eligibility for transitional severance benefits as is required for gubernatorial appointees pursuant to subsection A.

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

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. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery and Sports Wagering Department, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery *and Sports Wagering Department* of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018 *and crimes related to sports wagering under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1*, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery *and regulation of sports wagering* and any evasions of such provisions, or (v) the use of the lottery *or sports wagering* as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis

and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

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. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by

the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery *and Sports Wagering Department* relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to 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, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, 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) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in 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.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or

551 teaching staffs; proprietary information gathered by or in the possession of the Authority from third
552 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
553 awarding contracts for construction or the purchase of goods or services; information of a proprietary
554 nature produced or collected by or for the Authority or members of its medical or teaching staffs;
555 financial statements not publicly available that may be filed with the Authority from third parties; the
556 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid
557 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
558 determination of marketing and operational strategies where disclosure of such strategies would be
559 harmful to the competitive position of the Authority; and information of a proprietary nature produced
560 or collected by or for employees of the Authority, other than the Authority's financial or administrative
561 records, in the conduct of or as a result of study or research on medical, scientific, technical, or
562 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body
563 or a private concern, when such information has not been publicly released, published, copyrighted, or
564 patented. This exclusion shall also apply when such information is in the possession of Virginia
565 Commonwealth University.

566 15. Information held by the Department of Environmental Quality, the State Water Control Board,
567 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active
568 federal environmental enforcement actions that are considered confidential under federal law and (ii)
569 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such
570 information shall be disclosed after a proposed sanction resulting from the investigation has been
571 proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure
572 of information related to inspection reports, notices of violation, and documents detailing the nature of
573 any environmental contamination that may have occurred or similar documents.

574 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel
575 itinerary, including vehicle identification data or vehicle enforcement system information; video or
576 photographic images; Social Security or other identification numbers appearing on driver's licenses;
577 credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll
578 facility use.

579 17. Information held by the Virginia Lottery and Sports Wagering Department pertaining to (i) the
580 social security number, tax identification number, state sales tax number, home address and telephone
581 number, personal and lottery banking account and transit numbers of a retailer, and financial information
582 regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except
583 that a winner's name, hometown, and amount won shall be disclosed.

584 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a
585 person regulated by the Board, where such person has tested negative or has not been the subject of a
586 disciplinary action by the Board for a positive test result.

587 19. Information pertaining to the planning, scheduling, and performance of examinations of holder
588 records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by
589 or for the State Treasurer or his agents or employees or persons employed to perform an audit or
590 examination of holder records.

591 20. Information held by the Virginia Department of Emergency Management or a local governing
592 body relating to citizen emergency response teams established pursuant to an ordinance of a local
593 governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or
594 operating schedule of an individual participant in the program.

595 21. Information held by state or local park and recreation departments and local and regional park
596 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
597 subdivision shall operate to prevent the disclosure of information defined as directory information under
598 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the
599 public body has undertaken the parental notification and opt-out requirements provided by such
600 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of
601 such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction
602 has restricted or denied such access. For such information of persons who are emancipated, the right of
603 access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of
604 the information may waive, in writing, the protections afforded by this subdivision. If the protections are
605 so waived, the public body shall open such information for inspection and copying.

606 22. Information submitted for inclusion in the Statewide Alert Network administered by the
607 Department of Emergency Management that reveal names, physical addresses, email addresses, computer
608 or internet protocol information, telephone numbers, pager numbers, other wireless or portable
609 communications device information, or operating schedules of individuals or agencies, where the release
610 of such information would compromise the security of the Statewide Alert Network or individuals
611 participating in the Statewide Alert Network.

612 23. Information held by the Judicial Inquiry and Review Commission made confidential by

§ 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or 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 retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing

activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to 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 public institution of higher education in the Commonwealth 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. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

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

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

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

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery ~~Board~~ and *Sports Wagering Commission* in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery and *Sports Wagering Department* matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or 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 by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of 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 board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, 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, a local finance board or board of trustees, the board of 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, 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, and those portions

of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

22. Those portions of meetings of the board of visitors of the University of Virginia 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. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

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 former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 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 subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

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

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. 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.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets

subject to the exclusion in subdivision 19 of § 2.2-3705.6.

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

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 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.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in 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.

48. 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.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership

920 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
921 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
922 subdivision 33 of § 2.2-3705.7.

923 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
924 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
925 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
926 § 60.2-114.

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

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

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

937 E. This section shall not be construed to (i) require the disclosure of any contract between the
938 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
939 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
940 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
941 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
942 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
943 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
944 of such bonds.

945 **§ 2.2-4002. Exemptions from chapter generally.**

946 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.),
947 the following agencies shall be exempted from the provisions of this chapter, except to the extent that
948 they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

949 1. The General Assembly.

950 2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly
951 granted any of the powers of a court of record.

952 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the
953 management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2
954 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§
955 29.1-700 et seq.) of Title 29.1.

956 4. The Virginia Housing Development Authority.

957 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created
958 under this Code, including those with federal authorities.

959 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031,
960 such educational institutions shall be exempt from the publication requirements only with respect to
961 regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining
962 of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of
963 students.

964 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii)
965 classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for
966 producers' milk, time and method of payment, butterfat testing and differential.

967 8. The Virginia Resources Authority.

968 9. Agencies expressly exempted by any other provision of this Code.

969 10. The Department of General Services in promulgating standards for the inspection of buildings for
970 asbestos pursuant to § 2.2-1164.

971 11. The State Council of Higher Education for Virginia, in developing, issuing, and revising
972 guidelines pursuant to § 23.1-207.

973 12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to
974 subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

975 13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and
976 Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601,
977 subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206,
978 and subsection A of § 3.2-5406.

979 14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,
980 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of
981 optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to § 2.2-2001.3.
16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-203.2.
17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.
18. The Virginia Small Business Financing Authority.
19. The Virginia Economic Development Partnership Authority.
20. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.
21. The Insurance Continuing Education Board pursuant to § 38.2-1867.
22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.
23. The Commissioner of the Marine Resources Commission in setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-1000.2.
24. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.
25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.
26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.
- B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:
1. Money or damage claims against the Commonwealth or agencies thereof.
 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
 3. The location, design, specifications or construction of public buildings or other facilities.
 4. Grants of state or federal funds or property.
 5. The chartering of corporations.
 6. Customary military, militia, naval or police functions.
 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
 8. The conduct of elections or eligibility to vote.
 9. Inmates of prisons or other such facilities or parolees therefrom.
 10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
 11. Traffic signs, markers or control devices.
 12. Instructions for application or renewal of a license, certificate, or registration required by law.
 13. Content of, or rules for the conduct of, any examination required by law.
 14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).
 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery ~~Board~~ and Sports Wagering Commission, and provided that such regulations are published and posted.
 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
 17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1 and any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5.
 18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.
 19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.
 20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.
 21. The Virginia Breeders Fund created pursuant to § 59.1-372.

1043 22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.
1044 23. The administration of medication or other substances foreign to the natural horse.
1045 24. Any rules adopted by the Charitable Gaming Board for the approval and conduct of game
1046 variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such
1047 rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii)
1048 published and posted.

1049 C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia
1050 Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be
1051 exempt from the provisions of this chapter.

1052 **§ 8.01-195.11. Compensation for wrongful incarceration.**

1053 A. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth
1054 and is wrongfully incarcerated for such felony may be awarded compensation in an amount equal to 90
1055 percent of the inflation adjusted Virginia per capita personal income as reported by the Bureau of
1056 Economic Analysis of the U.S. Department of Commerce for each year of incarceration, or portion
1057 thereof.

1058 B. Any compensation computed pursuant to subsection A and approved by the General Assembly
1059 shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to
1060 have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid an initial lump sum
1061 equal to 20 percent of the compensation award with the remaining 80 percent of the principal of the
1062 compensation award to be used by the State Treasurer to purchase an annuity from any A+ rated
1063 company, including any A+ rated company from which the Virginia Lottery and Sports Wagering
1064 Department may purchase an annuity, to provide equal monthly payments to such person for a period
1065 certain of 25 years commencing no later than one year after the effective date of the appropriation. The
1066 annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and
1067 mortgages by the person awarded compensation. The annuity shall, however, contain beneficiary
1068 provisions providing for the annuity's continued disbursement in the event of the death of the person
1069 awarded compensation. All payments or costs of annuities under this section shall be made by check
1070 issued by the State Treasurer on warrant of the Comptroller.

1071 C. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth
1072 and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be
1073 paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to
1074 subsection B, within 30 days of receipt of the written request for the disbursement of the transition
1075 assistance grant to the Executive Secretary of the Supreme Court of Virginia. Payment of the transition
1076 assistance grant from the Criminal Fund shall be made by the State Treasurer on warrants issued by the
1077 Comptroller upon written request signed by the Executive Secretary of the Supreme Court of Virginia.
1078 In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career
1079 and technical training within the Virginia Community College System contingent upon successful
1080 completion of the training. Reimbursement for tuition shall be provided by the comprehensive
1081 community college at which the career or technical training was completed.

1082 **§ 9.1-101. Definitions.**

1083 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires
1084 a different meaning:

1085 "Administration of criminal justice" means performance of any activity directly involving the
1086 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
1087 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
1088 storage, and dissemination of criminal history record information.

1089 "Board" means the Criminal Justice Services Board.

1090 "Conviction data" means information in the custody of any criminal justice agency relating to a
1091 judgment of conviction, and the consequences arising therefrom, in any court.

1092 "Correctional status information" means records and data concerning each condition of a convicted
1093 person's custodial status, including probation, confinement, work release, study release, escape, or
1094 termination of custody through expiration of sentence, parole, pardon, or court decision.

1095 "Criminal history record information" means records and data collected by criminal justice agencies
1096 on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
1097 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
1098 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
1099 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
1100 status information.

1101 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
1102 which as its principal function performs the administration of criminal justice and any other agency or
1103 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for
1104 the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which,

within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the Virginia Lottery and Sports Wagering Department; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for

law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

§ 9.1-801. Public safety officer defined.

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the Virginia Lottery and Sports Wagering Department; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

§ 11-16.1. Exemption; authorized sports wagering.

This chapter shall not apply to any sports wagering or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1.

§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, any conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery and Sports Wagering Department, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv)

who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the

date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

§ 18.2-334.3. Exemptions to article; lottery; sports wagering.

Nothing in this article shall apply to any:

1. Any lottery conducted by the Commonwealth of Virginia pursuant to *Article 1* (§ 58.1-4000 *et seq.*) of Chapter 40 of Title 58.1; or

2. Any sports wagering or related activity that is lawful under *Article 2* (§ 58.1-4030 *et seq.*) of Chapter 40 of Title 58.1.

§ 18.2-340.22. Only raffles, bingo, network bingo, and instant bingo games permitted; prizes not gaming contracts.

A. This article permits qualified organizations to conduct raffles, bingo, network bingo, and instant bingo games. All games not explicitly authorized by this article or Board regulations adopted in accordance with § 18.2-340.18 are prohibited.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.

C. Nothing in this article shall prohibit an organization from using the Virginia Lottery's and Sports Wagering Department's Pick-3 number or any number or other designation selected by the Virginia Lottery and Sports Wagering Department in connection with any lottery, as the basis for determining the winner of a raffle.

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that

operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery *and Sports Wagering* Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

- 1412 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
1413 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
1414 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
- 1415 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
1416 Department of Education, or the Department of Behavioral Health and Developmental Services for the
1417 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1418 services;
- 1419 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1420 Department for the purpose of determining an individual's fitness for employment pursuant to
1421 departmental instructions;
- 1422 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
1423 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
1424 records information on behalf of such governing boards or administrators pursuant to a written
1425 agreement with the Department of State Police;
- 1426 24. Public institutions of higher education and nonprofit private institutions of higher education for
1427 the purpose of screening individuals who are offered or accept employment;
- 1428 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
1429 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
1430 higher education, for the purpose of assessing or intervening with an individual whose behavior may
1431 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
1432 history record information obtained pursuant to this section or otherwise use any record of an individual
1433 beyond the purpose that such disclosure was made to the threat assessment team;
- 1434 26. Executive directors of community services boards or the personnel director serving the
1435 community services board for the purpose of determining an individual's fitness for employment,
1436 approval as a sponsored residential service provider, or permission to enter into a shared living
1437 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
1438 §§ 37.2-506 and 37.2-607;
- 1439 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1440 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1441 or permission to enter into a shared living arrangement with a person receiving medical assistance
1442 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
- 1443 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1444 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1445 name, address, demographics and social security number of the data subject shall be released;
- 1446 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1447 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1448 purpose of determining if any applicant who accepts employment in any direct care position or requests
1449 approval as a sponsored residential service provider or permission to enter into a shared living
1450 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1451 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1452 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1453 37.2-607;
- 1454 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1455 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1456 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;
- 1457 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
1458 for the purpose of determining if any person being considered for election to any judgeship has been
1459 convicted of a crime;
- 1460 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1461 determining an individual's fitness for employment in positions designated as sensitive under Department
1462 of Human Resource Management policies developed pursuant to § 2.2-1201.1;
- 1463 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
1464 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
1465 Violent Predators Act (§ 37.2-900 et seq.);
- 1466 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
1467 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
1468 companies, for the conduct of investigations of applications for employment or for access to facilities,
1469 by contractors, leased laborers, and other visitors;
- 1470 35. Any employer of individuals whose employment requires that they enter the homes of others, for
1471 the purpose of screening individuals who apply for, are offered, or have accepted such employment;
- 1472 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
1473 providers of adult foster care and home-based services or (ii) any individual with whom the agency is

considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

45. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange

for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.
2. To employ the personnel required to carry out the purposes of this title.
3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.
4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.
5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.
6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.
7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department within 15 working days of the critical incident, serious injury, or death.
8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.
9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.
10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.
11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to

§ 37.2-312.2.

12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finances Committees that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

13. *To administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.*

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the Commissioner shall devote his entire time to his duties.

§ 37.2-314.1. Problem Gambling Treatment and Support Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to subsection B of § 58.1-4037 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing problem gambling treatment and prevention programs, and (iii) providing grants to supporting organizations that provide assistance to compulsive gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the

amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written

agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery and Sports Wagering Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; and (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest

1781 in real property governed by any such association; however, such information shall be released only
1782 upon written request stating the reason for such request, which reason shall be limited to proposing or
1783 opposing changes to the governing documents of the association, and any information received by any
1784 person under this subsection shall be used only for the reason stated in the written request. The treasurer
1785 or other local assessing official may require any person requesting information pursuant to clause (iii) of
1786 this subsection to pay the reasonable cost of providing such information. Any person to whom tax
1787 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties
1788 prescribed herein as though he were a tax official.

1789 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
1790 treasurer or other collector of taxes for a county, city or town is authorized to provide information
1791 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course
1792 of performing his duties to the commissioner of the revenue or other assessing official for such
1793 jurisdiction for use by such commissioner or other official in performing assessments.

1794 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
1795 motor vehicle local license decal the year, make, and model and any other legal identification
1796 information about the particular motor vehicle for which that local license decal is assigned.

1797 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
1798 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
1799 written request, the name, address, and social security number of a taxpayer, necessary for the
1800 performance of the Commissioner's official duties regarding the administration and enforcement of laws
1801 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
1802 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
1803 Commissioner of the obligations under this section.

1804 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
1805 any confidential tax document which he knows or has reason to know is a confidential tax document. A
1806 confidential tax document is any correspondence, document, or tax return that is prohibited from being
1807 divulged by subsection A, B, C, or D and includes any document containing information on the
1808 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
1809 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
1810 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
1811 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

1812 **§ 58.1-302. Definitions.**

1813 For the purpose of this chapter and unless otherwise required by the context:

1814 "Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to
1815 each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or
1816 others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same
1817 interests.

1818 "Compensation" means wages, salaries, commissions and any other form of remuneration paid or
1819 accrued to employees for personal services.

1820 "Corporation" includes associations, joint stock companies and insurance companies.

1821 "Domicile" means the permanent place of residence of a taxpayer and the place to which he intends
1822 to return even though he may actually reside elsewhere. In determining domicile, consideration may be
1823 given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not
1824 limited to, financial independence, business pursuits, employment, income sources, residence for federal
1825 income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of
1826 personal and real property owned by the applicant, motor vehicle and other personal property
1827 registration, residence for purposes of voting as proven by registration to vote, if any, and such other
1828 factors as may reasonably be deemed necessary to determine the person's domicile.

1829 "Foreign source income" means:

- 1830 1. Interest, other than interest derived from sources within the United States;
- 1831 2. Dividends, other than dividends derived from sources within the United States;
- 1832 3. Rents, royalties, license, and technical fees from property located or services performed without
1833 the United States or from any interest in such property, including rents, royalties, or fees for the use of
1834 or the privilege of using without the United States any patents, copyrights, secret processes and
1835 formulas, good will, trademarks, trade brands, franchises, and other like properties;
- 1836 4. Gains, profits, or other income from the sale of intangible or real property located without the
1837 United States; and

1838 5. The amount of an individual's share of net income attributable to a foreign source qualified
1839 business unit of an electing small business corporation (S corporation). For purposes of this subsection,
1840 qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such
1841 income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

1842 In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the

1843 Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.
 1844 "Income and deductions from Virginia sources" includes:
 1845 1. Items of income, gain, loss and deduction attributable to:
 1846 a. The ownership of any interest in real or tangible personal property in Virginia;
 1847 b. A business, trade, profession or occupation carried on in Virginia; or
 1848 c. Prizes paid by the Virginia Lottery and Sports Wagering Department, and gambling winnings from
 1849 wagers placed or paid at a location in Virginia.
 1850 2. Income from intangible personal property, including annuities, dividends, interest, royalties and
 1851 gains from the disposition of intangible personal property to the extent that such income is from
 1852 property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.
 1853 "Income tax return preparer" means any person who prepares for compensation, or who employs one
 1854 or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for
 1855 refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion
 1856 of a return or claim for refund shall be treated as if it were the preparation of the return or claim for
 1857 refund. A person shall not be an "income tax return preparer" merely because the person:
 1858 1. Furnishes typing, reproducing, or other mechanical assistance;
 1859 2. Prepares a return or claim for refund of the employer (or of an officer or employee of the
 1860 employer) by whom he is regularly and continuously employed;
 1861 3. Prepares as a fiduciary a return or claim for refund for any person; or
 1862 4. Prepares an application for correction of an erroneous assessment or a protective claim for refund
 1863 for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in
 1864 response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the
 1865 taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly
 1866 affects the tax liability of such taxpayer.
 1867 "Individual" means all natural persons whether married or unmarried and fiduciaries acting for
 1868 natural persons, but not fiduciaries acting for trusts or estates.
 1869 "Intangible expenses and costs" means:
 1870 1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or
 1871 indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any
 1872 other disposition of intangible property to the extent such amounts are allowed as deductions or costs in
 1873 determining taxable income;
 1874 2. Losses related to or incurred in connection directly or indirectly with factoring transactions or
 1875 discounting transactions;
 1876 3. Royalty, patent, technical and copyright fees;
 1877 4. Licensing fees; and
 1878 5. Other similar expenses and costs.
 1879 "Intangible property" means patents, patent applications, trade names, trademarks, service marks,
 1880 copyrights and similar types of intangible assets.
 1881 "Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163
 1882 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue
 1883 Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection
 1884 with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease,
 1885 transfer, or disposition of intangible property.
 1886 "Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.
 1887 "Related entity" means:
 1888 1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318
 1889 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own,
 1890 directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the
 1891 taxpayer's outstanding stock;
 1892 2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation,
 1893 if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and
 1894 corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent
 1895 of the value of the taxpayer's outstanding stock; or
 1896 3. A corporation, or a party related to the corporation in a manner that would require an attribution
 1897 of stock from the corporation to the party or from the party to the corporation under the attribution rules
 1898 of § 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially or
 1899 constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution
 1900 rules of § 318 of the Internal Revenue Code shall apply for purposes of determining whether the
 1901 ownership requirements of this subdivision have been met.
 1902 "Related member" means a person that, with respect to the taxpayer during all or any portion of the
 1903 taxable year, is a related entity, a component member as defined in § 1563(b) of the Internal Revenue

1904 Code, or is a person to or from whom there is attribution of stock ownership in accordance with
1905 § 1563(e) of the Internal Revenue Code.

1906 "Resident" applies only to natural persons and includes, for the purpose of determining liability for
1907 the taxes imposed by this chapter upon the income of any taxable year every person domiciled in
1908 Virginia at any time during the taxable year and every other person who, for an aggregate of more than
1909 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in
1910 Virginia or not. The word "resident" shall not include any member of the United States Congress who is
1911 domiciled in another state.

1912 "Resident estate or trust" means:

- 1913 1. The estate of a decedent who at his death was domiciled in the Commonwealth;
- 1914 2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth;
- 1915 3. A trust created by or consisting of property of a person domiciled in the Commonwealth; or
- 1916 4. A trust or estate which is being administered in the Commonwealth.

1917 "Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or
1918 other disposition of intangible property shall include only the net gain realized from the transaction.

1919 "State," for purposes of Article 10 (§ 58.1-400 et seq.), means any state of the United States, the
1920 District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United
1921 States, and any foreign country.

1922 "Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary
1923 income tax return under the laws of the United States.

1924 "Virginia fiduciary adjustment" means the net amount of the applicable modifications described in
1925 §§ 58.1-322.01, 58.1-322.02, and 58.1-322.04 (including subdivision 1 of § 58.1-322.04 if the estate or
1926 trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction
1927 of an estate or trust. The fiduciary adjustment shall not include the modification in § 58.1-322.03, except
1928 that the amount of state income taxes excluded from federal taxable income shall be included. The
1929 fiduciary adjustment shall also include the modification in subdivision 7 of § 58.1-322.03 regarding the
1930 deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.

1931 **§ 58.1-460. Definitions.**

1932 For the purposes of this article:

1933 "Employee" includes an individual, whether a resident or a nonresident of the Commonwealth, who
1934 performs or performed any service in the Commonwealth for wages, or a resident of the Commonwealth
1935 who performs or performed any service in the service outside the Commonwealth for wages. The word
1936 "employee" also includes an officer, employee, or elected official of the United States, the
1937 Commonwealth, or any other state or any territory, or any political subdivision thereof, or the District of
1938 Columbia, or any agency or instrumentality of any one or more of the foregoing or an officer of a
1939 corporation. The term shall not include the beneficial owner of an individual retirement account (IRA)
1940 or simplified employee pension plan (SEPP).

1941 "Employer" means the Commonwealth, or any political subdivision thereof, the United States, or any
1942 agency or instrumentality of any one or more of the foregoing, or the person, whether a resident or a
1943 nonresident of the Commonwealth, for whom an individual performs or performed any service as an
1944 employee or from whom a person receives a prize in excess of \$5,001 pursuant to the Virginia Lottery
1945 *and Sports Wagering Law* (§ 58.1-4000 et seq.), except that:

1946 1. If the person, governmental unit, or agency thereof, for whom the individual performs or
1947 performed the service does not have control of the payment of the wages for such services, the term
1948 "employer" (except as used in the definition of "wages" herein) means the person having control of the
1949 payment of such wages, and

1950 2. In the case of a person paying wages on behalf of a nonresident person not engaged in trade or
1951 business within the Commonwealth or on behalf of any governmental unit or agency thereof not located
1952 within the Commonwealth, the term, "employer" (except as used in the definition of "wages" herein)
1953 means such person. The term shall not include a financial institution, corporation, partnership or other
1954 person or entity with respect to benefits paid as custodian, trustee or depository for an individual
1955 retirement account (IRA) or simplified employee pension plan (SEPP).

1956 "Miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly,
1957 semimonthly, monthly, quarterly, semiannual, or annual payroll period.

1958 "Payroll period" means a period for which a payment of wages is ordinarily made to the employee
1959 by his employer.

1960 "Wages" means wages as defined under § 3401 (a) of the Internal Revenue Code, as well as any
1961 other amounts from which federal income tax is withheld under the provisions of §§ 3402 and 3405 of
1962 the Internal Revenue Code and also includes all prizes in excess of \$5,001 paid by the Virginia Lottery;
1963 however, such term shall not include amounts paid pursuant to individual retirement plans and simplified
1964 employee pension plans as defined in §§ 7701 (a)(37) and 408 (c) of the Internal Revenue Code and
1965 shall not include remuneration paid for acting in or service as a member of the crew of a (i) motion

picture feature film, (ii) television series or commercial, or (iii) promotional film filmed totally or partially in the Commonwealth by an individual or corporation which conducts business in the Commonwealth for less than 90 days of the tax year and when such film, series or commercial is processed, edited and marketed outside the Commonwealth. Every such individual or corporation shall, immediately subsequent to the filming of such portion of the film, series or commercial filmed in the Commonwealth, file with the Commissioner on forms furnished the Department, a list of the names and social security account numbers of each actor or crew member who is a resident of the Commonwealth and is compensated by such individual or corporation.

CHAPTER 40.

VIRGINIA LOTTERY AND SPORTS WAGERING LAW.

Article 1.

Powers and Duties of Virginia Lottery and Sports Wagering Commission; Administration of Tickets and Prizes.

§ 58.1-4000. Short title.

This ~~chapter~~ *article* shall be known and may be cited as the Virginia Lottery and Sports Wagering Law.

§ 58.1-4002. Definitions.

For the purposes of As used in this chapter, unless the context requires a different meaning:

"~~Board~~" "*Commission*" means the Virginia Lottery ~~Board~~ and Sports Wagering Commission established by this chapter.

"Department" or "*Virginia Lottery and Sports Wagering Department*" means the independent agency responsible for the administration of the Virginia Lottery created in this ~~chapter~~ *article* and operation of sports wagering pursuant to Article 2 (§ 58.1-4030 et seq.).

"Director" means the Director of the ~~Virginia Lottery Department~~.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

"Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.

"*Voluntary exclusion program*" means a program established by the Commission pursuant to § 58.1-4015.1 that allows individuals to voluntarily exclude themselves from buying lottery tickets or shares and participating in sports wagering, as defined in § 58.1-4030, by placing their name on a voluntary exclusion list and following the procedures set forth by the Commission.

§ 58.1-4003. Virginia Lottery and Sports Wagering Department established.

Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any other provision of law, there is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive or judicial branches of government, the Virginia Lottery and Sports Wagering Department, which shall include a Director and a Virginia Lottery ~~Board~~ and Sports Wagering Commission for the purpose of operating a state lottery and sports wagering.

§ 58.1-4004. Membership of Commission; appointment; terms; vacancies; removal; expenses.

A. The ~~Board~~ *Commission* shall consist of five members, all of whom shall be citizens and residents of ~~this the~~ Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made *or*, and if not in session, then at its next succeeding session. Prior to the appointment of any ~~Board~~ *Commission* members, the Governor shall consider the political affiliation and the geographic residence of the ~~Board~~ *Commission* members. The members shall be appointed for terms of five years. The members shall annually elect one member as chairman of the ~~Board~~ *Commission*.

B. Any vacancy on the ~~Board~~ *Commission* occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original term.

C. The members of the ~~Board~~ *Commission* shall receive such compensation as provided in § 2.2-2813, shall be subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the performance of their official duties.

D. Before entering upon the discharge of their duties, the members of the ~~Board~~ *Commission* shall take an oath that they will faithfully and honestly execute the duties of the office during their continuance therein and they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of their duties. The premium on such bond shall be paid out of the Virginia Lottery Fund.

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer the operation of the lottery in accordance with the

2027 provisions of this chapter and with the rules and regulations promulgated hereunder.

2028 B. The Director shall also:

2029 1. Employ such deputy directors, professional, technical and clerical assistants, and other employees
2030 as may be required to carry out the functions and duties of the Department.

2031 2. Act as secretary and executive officer of the ~~Board~~ *Commission*.

2032 3. Require bond or other surety satisfactory to the Director from licensed agents as provided in
2033 subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery
2034 funds, in such amount as provided in the rules and regulations of the ~~Board~~ *Commission*. The Director
2035 may also require bond from other employees as he deems necessary.

2036 4. Confer regularly, but not less than four times each year, with the ~~Board~~ *Commission* on the
2037 operation and administration of the lottery *and the regulation of sports wagering*; make available for
2038 inspection by the ~~Board~~ *Commission*, upon request, all books, records, files, and other information and
2039 documents of the Department; and advise the ~~Board~~ *Commission* and recommend such matters as he
2040 deems necessary and advisable to improve the operation and administration of the lottery *and the*
2041 *regulation of sports wagering*.

2042 5. Suspend, revoke or refuse to renew any license issued pursuant to this chapter or the rules and
2043 regulations adopted hereunder.

2044 6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the
2045 lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the
2046 Director shall not be assigned by the holder thereof except by specific approval of the Director.

2047 7. Certify monthly to the State Comptroller and the ~~Board~~ *Commission* a full and complete statement
2048 of lottery revenues, prize disbursements and other expenses for the preceding month.

2049 8. Report monthly to the Governor, the Secretary of Finance and the Chairmen of the Senate Finance
2050 Committee, House Finance Committee and House Appropriations Committee the total lottery revenues,
2051 prize disbursements and other expenses for the preceding month, and make an annual report, which shall
2052 include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the
2053 Governor and the General Assembly. Such annual report shall also include such recommendations for
2054 changes in this chapter as the Director and ~~Board~~ *Commission* deem necessary or desirable.

2055 9. Report immediately to the Governor and the General Assembly any matters which require
2056 immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this
2057 chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection
2058 with the administration or operation of the lottery.

2059 10. Notify prize winners and appropriate state and federal agencies of the payment of prizes in
2060 excess of \$600 in the manner required by the lottery rules and regulations.

2061 11. Provide for the withholding of the applicable amount of state and federal income tax of persons
2062 claiming a prize for a winning ticket in excess of \$5,001.

2063 C. The Director and the director of security or investigators appointed by the Director shall be vested
2064 with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department
2065 and to investigate violations of the statutes and regulations that the Director is required to enforce.

2066 D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales
2067 agents which he determines will be cost effective and support increased sales of lottery products.

2068 **§ 58.1-4007. Powers of the Commission.**

2069 A. The ~~Board~~ *Commission* shall have the power to adopt regulations governing the establishment and
2070 operation of a lottery *pursuant to this article and sports wagering pursuant to Article 2 (§ 58.1-4030 et*
2071 *seq.)*. The regulations governing the establishment and operation of the lottery *and sports wagering* shall
2072 be promulgated by the ~~Board~~ *Commission* after consultation with the Director. Such regulations shall be
2073 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide
2074 for all matters necessary or desirable for the efficient, honest, and economical operation and
2075 administration of the lottery *and sports wagering* and for the convenience of the purchasers of tickets or
2076 shares, ~~and~~ the holders of winning tickets or shares, *and sports wagerers*. The regulations, which may
2077 be amended, repealed, or supplemented as necessary, shall include, but not be limited to, the following:

2078 1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.

2079 2. The price or prices of tickets or shares in the lottery.

2080 3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the
2081 public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes
2082 and (ii) returned to the Commonwealth as net revenues.

2083 4. The manner of selecting the winning tickets or shares.

2084 5. The manner of payment of prizes to the holders of winning tickets or shares.

2085 6. The frequency of the drawings or selections of winning tickets or shares without limitation.

2086 7. Without limitation as to number, the type or types of locations at which tickets or shares may be
2087 sold.

2088 8. The method to be used in selling tickets or shares.

9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at the agent's place of business so long as the employee is supervised in the selling or vending of tickets by the manager or supervisor in charge at the location where the tickets are being sold. Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public. Notwithstanding the provisions of this subdivision, the ~~Board~~ *Commission* shall not be required to approve temporary bonus or incentive programs for payments to licensed sales agents.

12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 of this chapter.

13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

14. *The operation of sports wagering pursuant to Article 2 (§ 58.1-4030 et seq.).*

15. *The administration of a voluntary exclusion program as provided in § 58.1-4015.1.*

The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2; however, the ~~Board~~ *Commission* shall promulgate regulations, after consultation with the Director, relative to departmental procurement which include standards of ethics for procurement consistent with the provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and which ensure that departmental procurement will be based on competitive principles.

The ~~Board~~ *Commission* shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director. However, the ~~Board~~ *Commission* shall have the power to accept, modify, or reject any revenue projections before such projections are forwarded to the Governor.

B. The ~~Board~~ *Commission* shall carry on a continuous study and investigation of the lottery and sports wagering throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery and sports wagering and any evasions of such provisions.

2. Formulate, with the Director, recommendations for changes in this chapter and the regulations promulgated hereunder to prevent such abuses and evasions.

3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.

4. Ensure that this law and the regulations of the ~~Board~~ *Commission* are in such form and are so administered as to serve the true purpose of this chapter.

C. The ~~Board~~ *Commission* shall make a continuous study and investigation of (i) the operation and the administration of similar laws which that may be in effect in other states or countries, (ii) any literature on the subject which that may be published or available, (iii) any federal laws which that may affect the operation of the lottery and sports wagering, and (iv) the reaction of Virginia citizens to the potential features of the lottery and sports wagering with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The ~~Board~~ *Commission* shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision A 10 of subsection A of this section and subdivision B 5 of subsection B of § 58.1-4006 of this chapter.

E. The ~~Board~~ *Commission* shall have the authority to initiate procedures for the planning, acquisition, and construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

F. *The Commission may adjust the percentage of uncollectible gaming receivables allowed to be subtracted from adjusted gross revenue, as defined in § 58.1-4030, if it determines that a different percentage is reasonable and customary in the sports wagering industry.*

§ 58.1-4008. Employees of the Department; background investigations of employees.

All persons employed by the Department shall be fingerprinted before, and as a condition of, employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a National Criminal Records search and to the Department of State Police for a Virginia Criminal History Records search. All ~~Board~~ *Commission* members, officers and employees of any vendor to the Department of lottery on-line or instant ticket goods or services working directly on a contract with the Department for such goods or services shall be fingerprinted, and such fingerprints shall be submitted to the Federal Bureau of Investigation for a National Criminal Records search conducted by the chief security officer of the ~~Virginia Lottery Department~~. A background investigation shall be conducted by the chief security

2150 officer of the *Virginia Lottery Department* on every applicant prior to employment by the Department.
2151 However, all division directors of the *Virginia Lottery Department* and employees of the *Virginia*
2152 *Lottery Department* performing duties primarily related to security matters shall be subject to a
2153 background investigation report conducted by the Department of State Police prior to employment by the
2154 Department. The Department of State Police shall be reimbursed by the *Virginia Lottery Department* for
2155 the cost of investigations conducted pursuant to this section or § 58.1-4005. No person who has been
2156 convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral
2157 turpitude shall be employed by the Department or on contracts with vendors described in this section.

2158 **§ 58.1-4009. Licensing of lottery sales agents; penalty.**

2159 A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in
2160 business primarily as a lottery sales agent. Before issuing such license, the Director shall consider such
2161 factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the
2162 accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to
2163 serve the public convenience; and (iv) the volume of expected sales.

2164 B. For the purposes of this section, the term "person" means an individual, association, partnership,
2165 corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee,
2166 or any other person acting in a fiduciary or representative capacity, whether appointed by a court or
2167 otherwise, and any combination of individuals. "Person" also means all departments, commissions,
2168 agencies and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies
2169 and instrumentalities thereof.

2170 C. The chief security officer of the *Virginia Lottery Department* shall conduct a background
2171 investigation, to include a Virginia Criminal History Records search, and fingerprints that shall be
2172 submitted to the Federal Bureau of Investigation if the Director deems a National Criminal Records
2173 search necessary, on applicants for licensure as lottery sales agents. The Director may refuse to issue a
2174 license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted
2175 of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling,
2176 (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v)
2177 engaged in conduct prejudicial to public confidence in the Lottery. The Director may refuse to grant a
2178 license or may suspend, revoke or refuse to renew a license issued pursuant to this chapter to a
2179 partnership or corporation, if he determines that any general or limited partner, or officer or director of
2180 such partnership or corporation has been (a) convicted of a crime involving moral turpitude, (b)
2181 convicted of bookmaking or other forms of illegal gambling, (c) found guilty of any fraud or
2182 misrepresentation in any connection, (d) convicted of a felony, or (e) engaged in conduct prejudicial to
2183 public confidence in the Lottery. Whoever knowingly and willfully falsifies, conceals or misrepresents a
2184 material fact or knowingly and willfully makes a false, fictitious or fraudulent statement or
2185 representation in any application for licensure to the *Virginia Lottery Department* for lottery sales agent
2186 is guilty of a Class 1 misdemeanor.

2187 D. In the event an applicant is a former lottery sales agent whose license was suspended, revoked, or
2188 refused renewal pursuant to this section or § 58.1-4012, no application for a new license to sell lottery
2189 tickets or shares shall be considered for a minimum period of 90 days following the suspension,
2190 revocation, or refusal to renew.

2191 E. Prior to issuance of a license, every lottery sales agent shall either (i) be bonded by a surety
2192 company entitled to do business in this Commonwealth in such amount and penalty as may be
2193 prescribed by the regulations of the Department or (ii) provide such other surety as may be satisfactory
2194 to the Director, payable to the Virginia Lottery and conditioned upon the faithful performance of his
2195 duties.

2196 F. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the
2197 regulations of the Department.

2198 **§ 58.1-4010. Authority of persons licensed as lottery sales agents; annual fee.**

2199 A. Notwithstanding any other provision of law, any person licensed as provided in this chapter is
2200 hereby authorized to act as a lottery sales agent.

2201 B. The rules and regulations of the lottery shall provide for an initial licensing fee and an annual
2202 license review fee to be collected from each lottery sales agent. Such fee, as promulgated by rule and
2203 regulation of the *Board Commission*, shall be designed to recover all or such portion of the installation
2204 and annual operational costs borne by the Department in providing services to the agent.

2205 **§ 58.1-4011. Meaning of "gross receipts."**

2206 A. Notwithstanding the provisions of Chapter 37 (§ 58.1-3700 et seq.) or § 58.1-4025 relating to
2207 local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation
2208 actually paid to a licensed sales agent as provided by rule or regulation adopted by the *Board*
2209 *Commission* consistent with the provisions of subdivision A 11 of § 58.1-4007.

2210 B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental
2211 payments for the business premises on which state lottery tickets are sold on the basis of retail sales

shall have that portion of rental payment based on sales of state lottery tickets or shares computed on the basis of the compensation received as a lottery agent from the Virginia Lottery Department.

§ 58.1-4015.1. Voluntary exclusion program.

A. The Commission shall adopt regulations to establish and implement a voluntary exclusion program.

B. The regulations shall include the following provisions:

1. Except as provided by regulation of the Commission, an individual who participates in the voluntary exclusion program agrees to refrain from buying lottery tickets or shares and from participating in sports wagering, as defined in § 58.1-4030.

2. Except as provided by regulation of the Commission, a person who participates in the voluntary exclusion program may not petition the Commission for removal from the program.

3. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, with dissemination by the Commission limited to sales agents for purposes of enforcement. The Commission shall disseminate the list to other parties upon request by the participant and agreement by the Commission.

4. Sales agents shall make all reasonable attempts as determined by the Commission to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude sales agents from seeking the payment of a debt incurred by a person before entering the program.

§ 58.1-4019. Certain persons ineligible to purchase tickets or shares or receive prizes.

A. No ticket or share shall be purchased by, and no prize shall be paid on a ticket purchased by or transferred to, any Board Commission member, officer or employee of the lottery, or any board member, officer or employee of any vendor to the lottery of lottery on-line or instant ticket goods or services working directly on a contract with the Department for such goods or services, or any person residing in the same household of such member, officer or employee or any person under the age of eighteen years, or transferee of any such persons.

B. Only natural persons may purchase lottery tickets and claim prize winnings. In all cases, the identity and social security number of all natural persons who receive a prize greater than \$100 from a winning ticket redeemed at any Department office shall be provided in order to comply with this section and §§ 58.1-4015, 58.1-4016 and 58.1-4026, and Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2.

§ 58.1-4020. Unclaimed prizes.

A. Unclaimed prizes for a winning ticket or share shall be retained by the Director for the person entitled thereto for 180 days after the drawing in which the prize was won in the case of a drawing prize and for 180 days after the announced end of the lottery game in the case of a prize determined in any manner other than by means of a drawing. If no claim is made for the prize within the 180 days, the Director shall deem such prize forfeited by the person entitled to claim such winnings.

B. All prizes deemed forfeited pursuant to subsection A shall be paid into the Literary Fund. The Director may develop procedures, to be approved by the Auditor of Public Accounts, for estimating the cumulative total of such unclaimed prizes in any lottery game in lieu of specifically identifying unclaimed prizes where such specific identification would not be cost effective. The Director, within 60 days after the end of each 180-day retention period, shall report the total value of prizes forfeited at the end of such period to the Comptroller, who shall promptly transfer the total of such prizes to the Literary Fund. The total value of prizes forfeited during the fiscal year shall be audited by the Auditor of Public Accounts in accordance with § 58.1-4023. In the case of a prize payable over time on one or more winning tickets, if one or more winning tickets is not claimed within the 180-day redemption period, the Department shall transfer the then current monetary value of such portion of the prize remaining unclaimed to the Literary Fund in accordance with procedures approved by the State Treasurer. "Current monetary value" shall be determined by the net proceeds from the sale of that portion of jackpot securities allocated to the unclaimed winner plus the amount of the initial cash payment.

C. Subsection B of this section shall not apply to prizes of \$25 or less resulting from any lottery game other than a lottery game in which a drawing determined the prize. The Board Commission shall adopt regulations for the disposition of all such unclaimed prizes of \$25 or less not resulting from a drawing. Such disposition shall be directed in whole or in part to either the Virginia Lottery Fund or to other forms of compensation to licensed sales agents.

D. For purposes of this section, "prize" refers to a cash prize. In the case of a prize payable over time and not as a lump sum payment, "prize" means the present cash value of the prize, not the value paid over time.

E. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C.A. § 525), any person whose unclaimed prize was deemed forfeited pursuant to subsection A

while he was in active military service may claim such forfeited prize by presenting his winning ticket to the Director no later than 180 days after his discharge from active military service. Within 30 days of such presentation, the Director shall verify the claim and report the verification to the Comptroller. The Comptroller shall promptly pay the verified claim first from funds available in the Unclaimed Property Trust Fund in § 3-2.00 of the general appropriations act; if such funds are insufficient, then, from any undesignated, unreserved year-end balance of the general fund. All verified claims shall be paid in accordance with the ~~Board's Commission's~~ rules and regulations then in effect regarding the manner of payment of prizes to the holders of winning tickets or shares.

§ 58.1-4020.1. Voluntary assignment of lottery prizes or pledge as collateral for a loan; requirements for the assignees and lenders.

A. Lottery prizes, payable in installments over a period of time, excluding prizes payable for the winner's life, may be voluntarily assigned or pledged as collateral for a loan, in whole or in part, by the person entitled to such installments, by written contract affirming that the requirements of this section have been met and endorsed by written order of a court of competent jurisdiction after a hearing. The order shall specify the name, address and social security number or tax identification number of the assignee or lender and shall specifically describe the payments be assigned or pledged as collateral by date and gross pre-tax amount. The Department shall be given notice of any hearing held pursuant to this section and shall have the right to appear and participate in such hearing. Venue for hearings held pursuant to this section shall be in the Circuit Court of the City of Richmond.

The rate charged for any such assignment or loan shall not exceed 15 percent.

The contract shall:

1. Be signed by the assignor and the assignee or the lender and the borrower, and the assignor or borrower shall affirm the assignment or loan has been voluntarily executed.

2. Include or be accompanied by a sworn statement attesting that the assignor or borrower (i) is of sound mind and not acting under duress; (ii) has been advised in writing by the assignee or lender to seek independent legal counsel and independent financial counsel concerning the implications of the assignment or loan, including the tax consequences, and has either received such advice or knowingly waived such advice in writing; (iii) understands that he is relinquishing or limiting his rights to receive the lottery proceeds; and (iv) has received from the ~~Virginia Lottery Department~~, in response to a written request therefor, confirmation of the assignee's or lender's registration with the ~~Virginia Lottery Department~~ in accordance with subsection E of this section.

3. Include a disclosure statement setting forth (i) the amounts assigned or loaned; (ii) the dates such amounts are payable; (iii) the purchase price paid for the assignment or loan; (iv) the rate of discount to present value, assuming daily compounding and funding on the contract date; (v) the amount of any fees associated with the assignment or loan and by whom such fees are payable; and (vi) the tax identification number of the assignee.

4. Expressly state that the assignor or borrower has three business days after signing the contract to cancel the assignment or loan.

5. Expressly state that the assignee or lender is eligible to purchase, share or receive prizes of the Virginia Lottery pursuant to §§ 58.1-4015, 58.1-4016 and subsection A of § 58.1-4019, and that the ~~Virginia Lottery Department~~ has complied with subsection B of § 58.1-4019 in that the original prizewinner is (or if deceased, was) a natural person if and to the extent that the prize was awarded on or after the effective date pursuant to subsection B of § 58.1-4019.

6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant to Article 21 (§ 58.1-520 et seq.) of Chapter 3 of this title.

B. The Commonwealth, the ~~Virginia Lottery Department~~ and any employee or representative of either shall be indemnified and held harmless upon payment of amounts due as set forth in the court order.

C. The ~~Lottery Department~~ may establish a reasonable fee to process the assignments provided for in this section and to receive, review and file the registration required by subsection E and confirm compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs of processing the assignments or registrations.

D. Notwithstanding the provisions of this section, the Commonwealth and the ~~Virginia Lottery Department~~ shall not accept any assignment if either of the following has occurred:

1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "Federal law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Internal Revenue Service.

2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "State law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Department of Taxation.

E. An assignee, prospective assignee, lender or prospective lender shall not make any representation in any written or oral communications with a lottery winner that implies that the assignee, prospective

assignee, lender or prospective lender is associated with or an agent of the ~~Virginia Lottery Department~~. Every prospective assignee or prospective lender shall register with the ~~Virginia Lottery Department~~, prior to contracting for any assignment or loan pursuant to this section. The registration shall include (i) the assignee's or lender's standard information packet or materials given or sent to prospective assignees or borrowers, (ii) the assignee's or lender's standard form of agreement, (iii) the assignee's or lender's federal tax identification number, and (iv) where applicable, the assignee's or lender's most recent public financial statement. The Director may deny, suspend or revoke a registration for a violation of this chapter or for such other reason as the ~~Board Commission~~, by regulation, may establish.

§ 58.1-4021. Deposit of moneys received by agents; performance of functions, etc., in connection with operation of lottery; compensation of agents.

A. The Director shall require all lottery sales agents to deposit to the credit of the Virginia Lottery Fund in banks, designated by the State Treasurer, all moneys received by such agents from the sale of lottery tickets or shares, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares, and to file with the Director, or his designated agents, reports of their receipts, transactions and disbursements pertaining to the sale of lottery tickets in such form and containing such information as he may require. Such deposits and reports shall be submitted at such times and within such intervals as shall be prescribed by rule and regulation of the Department. The Director may arrange for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this chapter and the rules and regulations of the Department, and such functions, activities and services shall constitute lawful functions, activities and services of the person.

B. The rules and regulations of the Department shall provide for a service charge to the licensed agent if any payor bank dishonors a check or draft tendered for deposit to the credit of the Virginia Lottery Fund by a licensed agent or for an electronic transfer of funds to the Virginia Lottery Fund from the account of a licensed agent for money received from the sale of lottery tickets.

The regulations of the Department shall provide for a service charge and penalty to a licensed agent if any payor bank dishonors a check or draft from the account of a licensed agent tendered for payment of any prize by a licensed agent to any claimant. Any such charge or penalty so collected by the Department shall be used first to reimburse the claimant for any charges or penalties incurred by him as a result of the licensed agent's dishonored check tendered as payment of any prize and the remainder to offset the Department's administrative costs.

C. A licensed agent shall be charged interest as provided in § 58.1-15 on the money that is not timely paid to the Virginia Lottery Fund in accordance with the rules and regulations of the Department and shall in addition thereto pay penalties as provided by rules and regulations of the Department.

D. Should the Department refer the debt of any licensed agent to the Attorney General, the Department of Taxation as provided in § 58.1-520 et seq., or any other central collection unit of the Commonwealth, an additional service charge shall be imposed in the amount necessary to cover the administrative costs of the Department and agencies to which such debt is referred.

E. Notwithstanding the provisions of Chapter 5 (§ 8.01-257 et seq.) of Title 8.01, in any action for the collection of a debt owed by any licensed agent to the ~~lottery Department~~, venue shall lie in the City of Richmond.

F. All proceeds from the sale of lottery tickets or shares received by a person in the capacity of a sales agent shall constitute a trust fund until deposited into the Virginia Lottery Fund either directly or through the Department's authorized collection representative. Proceeds shall include cash proceeds of the sale of any lottery products, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares. Sales agents shall be personally liable for all proceeds.

G. If the Director determines that the deposit or collection from any sales agent of any moneys or proceeds under this section is or will be jeopardized or will otherwise be delayed, he may adjust either the time or the interval or both for such deposits or collections of any sales agent; require that all such moneys or proceeds shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets prior to their deposit or collection under this section; and require such other security of any sales agent as he may deem advisable to ensure the timely deposit or collection of moneys or proceeds to the credit of the Virginia Lottery Fund.

Collection of moneys or proceeds "is or will be jeopardized or will otherwise be delayed" when (i) a check, draft, or electronic funds transfer to the credit of the Virginia Lottery Fund is dishonored as described in subsection B; (ii) an independent auditor states that the lottery sales agent's financial condition raises substantial doubt about its ability to continue as a going concern; or (iii) the lottery sales agent (a) closes for business or fails to maintain normal business hours without reasonable explanation, (b) has a credit record reflecting recent actions which cast doubt as to its creditworthiness, (c) states it has or may have cash flow problems or may be unable to meet its financial obligations, (d) states it may seek the protection of the federal bankruptcy or state insolvency law, (e) refuses to

2396 purchase additional lottery tickets or returns tickets ordered without good cause, or (f) does any other act
 2397 tending to prejudice or to render wholly or partially ineffectual proceedings to collect moneys or
 2398 proceeds which are or will become due and payable to the Virginia Lottery Fund.

2399 **§ 58.1-4022. Virginia Lottery Fund.**

2400 A. All moneys received from the sale of lottery tickets or shares, less payment for prizes and
 2401 compensation of agents as authorized by regulation and any other revenues received under this chapter,
 2402 shall be placed in a special fund known as the "Virginia Lottery Fund." Notwithstanding any other
 2403 provisions of law, interest earned from moneys in the Virginia Lottery Fund shall accrue to the benefit
 2404 of such Fund.

2405 B. The total costs for the operation and administration of the lottery shall be funded from the
 2406 Virginia Lottery Fund and shall be in such amount as provided in the general appropriation act.
 2407 Appropriations to the Department during any fiscal year beginning on and after July 1, 1989, exclusive
 2408 of agent compensation, shall at no time exceed 10 percent of the total annual estimated gross revenues
 2409 to be generated from lottery sales. However, should it be anticipated at any time by the Director that
 2410 such operational and administrative costs for a fiscal year will exceed the limitation provided herein, the
 2411 Director shall immediately report such information to the ~~Board~~ *Commission*, the Governor and the
 2412 Chairmen of Senate Finance and House Appropriations Committees. From the moneys in the Fund, the
 2413 Comptroller shall establish a special reserve fund in such amount as shall be provided by regulation of
 2414 the Department for (i) operation of the lottery, (ii) use if the game's pay-out liabilities exceed its cash on
 2415 hand, or (iii) enhancement of the prize pool with income derived from lending securities held for
 2416 payment of prize installments, which lending of securities shall be conducted in accordance with lending
 2417 programs approved by the Department of the Treasury.

2418 C. The Comptroller shall transfer to the Lottery Proceeds Fund established pursuant to § 58.1-4022.1,
 2419 less the special reserve fund, the audited balances of the Virginia Lottery Fund at the close of each
 2420 fiscal year. The transfer for each year shall be made in two parts: (i) on or before June 30, the
 2421 Comptroller shall transfer balances of the Virginia Lottery Fund for the fiscal year, based on an estimate
 2422 determined by the ~~Virginia Lottery Department~~, and (ii) no later than 10 days after receipt of the annual
 2423 audit report required by § 58.1-4023, the Comptroller shall transfer to the Lottery Proceeds Fund the
 2424 remaining audited balances of the Virginia Lottery Fund for the fiscal year. If such annual audit
 2425 discloses that the actual revenue is less than the estimate on which the transfer was based, the State
 2426 Comptroller shall transfer the difference between the actual revenue and the estimate from the Lottery
 2427 Proceeds Fund to the Virginia Lottery Fund.

2428 D. In addition to such other funds as may be appropriated, 100 percent of the lottery revenues
 2429 transferred to the Lottery Proceeds Fund shall be appropriated entirely and solely for the purpose of
 2430 public education in the Commonwealth unless otherwise redirected pursuant to Article X, Section 7-A of
 2431 the Constitution of Virginia. The additional appropriation of lottery revenues to local school divisions
 2432 for public education purposes consistent with this provision shall be used for operating, capital outlay, or
 2433 debt service expenses, as determined by the appropriation act. The additional appropriation of lottery
 2434 revenues shall not be used by any local school division to reduce its total local expenditures for public
 2435 education in accordance with the provisions of the general appropriation act.

2436 E. As a function of the administration of this chapter, funds may be expended for the purposes of
 2437 reasonably informing the public concerning (i) the facts embraced in the subjects contained in
 2438 subdivisions A 1 through 7 of § 58.1-4007 and (ii) the fact that the net proceeds are paid into the
 2439 Lottery Proceeds Fund of the Commonwealth, but no funds shall be expended for the primary purpose
 2440 of inducing persons to participate in the lottery.

2441 **§ 58.1-4023. Post-audit of accounts and transactions of Department; post-compliance audits.**

2442 A regular post-audit shall be conducted of all accounts and transactions of the Department. An
 2443 annual audit of a fiscal and compliance nature of the accounts and transactions of the Department shall
 2444 be conducted by the Auditor of Public Accounts on or before August 15 of each year. The cost of the
 2445 annual audit and post-audit examinations shall be borne by the Department. The ~~Board~~ *Commission* may
 2446 order such other audits as it deems necessary and desirable.

2447 **§ 58.1-4027. Judicial review.**

2448 The action of the ~~Board~~ *Commission* in (i) granting, ~~or in refusing to grant, or denying a license or~~
 2449 ~~registration or in suspending or revoking any license or registration~~ under the provisions of this ~~chapter~~
 2450 ~~article and (ii) imposing any penalty pursuant to Article 2 (§ 58.1-4030 et seq.)~~ shall be subject to
 2451 review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such
 2452 review shall be limited to the evidential record of the proceedings provided by the ~~Board~~ *Commission*.
 2453 Both the petitioner and the ~~Board~~ *Commission* shall have the right to appeal to the Court of Appeals
 2454 from any order of the court.

2455 *Article 2.*

2456 *Sports Wagering.*

2457 **§ 58.1-4030. Definitions.**

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

"Adjusted gross revenue" means gross revenue minus:

1. All cash and the cash value of merchandise, including bonuses or promotions, paid out as winnings to wagerers;

2. Uncollectible gaming receivables. Uncollectible gaming receivables shall not exceed two percent, or a different percentage as determined by the Commission pursuant to subsection F of § 58.1-4007, of gross revenue minus all cash paid out as winnings to wagerers; and

3. A reasonable percentage, not to exceed 2.5 percent of gross revenue, to defray the Department's costs of operating a sports wagering program.

"College sports" means an athletic event (i) in which at least one participant is a team from a public or private institution of higher education, regardless of where such institution is located, and (ii) that does not include a team from a Virginia public or private institution of higher education.

"Gross revenue" means the total of all cash, property, or any other form of remuneration, whether collected or not, received by the Department from its sports wagering operations.

"Professional sports" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in such event. "Professional sports" does not include charitable gaming, as defined in § 18.2-340.16; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

"Sports wagering" means placing wagers on professional sports and college sports. "Sports wagering" does not include participating in charitable gaming authorized by Article 1.1:1 (§ 18.2-340.15) of Chapter 8 of Title 18.2; wagering on horse racing authorized by Chapter 29 (§ 59.1-364 et seq.) of Title 59.1; or participating in fantasy contests authorized by Chapter 51 (§ 59.1-556 et seq.) of Title 59.1.

"Sports wagering facility" means the facility at which the Department operates the sports wagering program.

"Sports wagering platform" means a website, app, or other platform accessible via the Internet or mobile, wireless, or similar communications technology that sports wagerers use to place sports bets.

"Sports wagering program" means the program established by the Commission to allow sports wagering as described in this article.

"Sports wagerer" means a person physically located in Virginia who participates in sports wagering.

"Virginia college sports" means an athletic event in which at least one participant is a team from a Virginia public or private institution of higher education.

"Youth sports" means an athletic event (i) involving a participant under age 18 or (ii) in which at least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where such school is located.

§ 58.1-4031. Sports wagering program established.

The Commission shall operate a sports wagering program under the direction of the Director. The Commission shall establish a sports wagering facility at which the Department accepts wagers on professional sports and college sports. The Commission may establish a sports wagering platform to allow the Department to accept wagers on professional sports and college sports over the Internet.

§ 58.1-4032. Powers and duties of the Director generally.

The Director may adopt any measures he deems necessary to the operation of sports wagering. The Director shall take reasonable measures to:

1. Ensure that only persons physically located in Virginia are able to place bets through the sports wagering platform;

2. Protect the confidential information of wagerers using the sports wagering platform;

3. Prevent wagering on events that are prohibited by § 58.1-4037, underage wagering as prohibited by § 58.1-4038, and wagers by persons who are prohibited from sports wagering by § 58.1-4039;

4. Allow persons to restrict themselves from sports wagering and prevent such persons from participating in sports wagering;

5. Establish procedures to detect suspicious or illegal wagering activity; and

6. Provide for the withholding of the applicable amount of state and federal income tax of persons who receive income from sports wagering.

§ 58.1-4033. Powers and duties of the Director related to recordkeeping.

The Director shall maintain records on:

1. All wagers, including the wagerer's personal information, the amount and type of wager, the time and location of the wager, and the outcome of the wager; and

2. Suspicious or illegal wagering activity.

§ 58.1-4034. Powers and duties of the Director related to reporting.

The Director shall report:

1. Monthly to the State Comptroller and the Commission a full and complete statement of sports

2519 wagering revenues and expenses for the previous month;

2520 2. Monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on
2521 Finance, House Committee on Finance, and House Committee on Appropriations the total sports
2522 wagering revenues and expenses for the previous month and make an annual report, which shall include
2523 a full and complete statement of sports wagering revenues and expenses, to the Governor and the
2524 General Assembly, including recommendations for changes in this article as the Director and
2525 Commission deem prudent; and

2526 3. Immediately to the Governor and the General Assembly any matters that require immediate
2527 changes in the laws of the Commonwealth in order to prevent abuses and evasions of this article or the
2528 rules and regulations adopted under this article or to rectify undesirable conditions in connection with
2529 the administration or operation of the sports wagering program.

2530 **§ 58.1-4035. Third-party contract.**

2531 The Commission may contract with a third party to operate the sports wagering program, sports
2532 wagering facility, and sports wagering platform under the supervision of the Director. If the Commission
2533 contracts with a third party, such third party shall assume all powers and duties of the Director, subject
2534 to his supervision. The Director may require bond or other surety satisfactory to the Director from any
2535 third party that operates the sports wagering program in such amount as provided in the rules and
2536 regulations of the Commission adopted under this article. Any contract entered into pursuant to this
2537 section shall use a competitive process conducted in accordance with the Virginia Public Procurement
2538 Act (§ 2.2-4300 et seq.).

2539 **§ 58.1-4036. Distribution of adjusted gross revenue.**

2540 The Department shall allocate 2.5 percent of adjusted gross revenue to the Problem Gambling
2541 Treatment and Support Fund established pursuant to § 37.2-314.1. The Department shall allocate the
2542 remaining 97.5 percent of adjusted gross revenue to the general fund.

2543 **§ 58.1-4037. Events on which wagering is prohibited; penalty.**

2544 A. No person shall place or accept a bet on:

- 2545 1. Virginia college sports; or
- 2546 2. Youth sports.

2547 B. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

2548 **§ 58.1-4038. Underage wagering prohibited; penalty.**

2549 A. No person shall knowingly accept or redeem a sports bet by, or knowingly offer to accept or
2550 redeem a sports bet on behalf of, a person under the age of 21 years.

2551 B. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

2552 **§ 58.1-4039. Persons prohibited from sports wagering; penalty.**

2553 A. The following persons shall be prohibited from sports wagering:

- 2554 1. Any Commission member, officer, or employee of the Department;
- 2555 2. Any officer or employee of any entity working directly on a contract with the Department related
2556 to sports wagering.

2557 B. Any competitor, coach, trainer, employee, or owner of a team in a professional sports event, or
2558 any referee for a professional sports event, shall be prohibited from placing a bet on such event.

2559 C. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

2560 **§ 58.1-4040. Civil penalties.**

2561 If the Director determines that a person has violated this article, he may, with at least 15 days'
2562 notice and a hearing, impose a monetary penalty of not more than \$1,000 for each violation of this
2563 article. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

2564 **§ 58.1-4041. Intermediate routing of electronic data.**

2565 All sports wagering shall be initiated and received within Virginia unless otherwise permitted by
2566 federal law. Consistent with the intent of the United States Congress as expressed in the Unlawful
2567 Internet Gambling Enforcement Act, 31 U.S.C. § 5361 et seq., the intermediate routing of electronic data
2568 relating to lawful intrastate sports wagering authorized under this article shall not determine the
2569 location in which such bet is initiated and received.

2570 **§ 58.1-4042. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.**

2571 Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply to
2572 sports wagering under this article. The Commission shall promulgate regulations to interpret and clarify
2573 the applicability of Article 1 (§ 58.1-4000 et seq.) to this article.

2574 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

2575 A. The Department of State Police, the Department of Game and Inland Fisheries, the Virginia
2576 Alcoholic Beverage Control Authority, the Virginia Lottery and Sports Wagering Department, the
2577 Marine Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the
2578 Department of Forestry, any sheriff, any regional jail board or authority, and any local police department
2579 may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire
2580 department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow

any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for a service-incurred disability with no expectation of returning to the employment where he incurred the disability to purchase the service handgun issued or previously issued to him by the agency or institution at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This privilege shall also extend to any former Superintendent of the Department of State Police who leaves service after a minimum of five years. This privilege shall also extend to any person listed in this subsection who is eligible for retirement with at least 10 years of service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this section to accept a position covered by the Virginia Retirement System. Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may, with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair market price determined as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the instant background check.

B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who retires with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

D. The governing board of any institution of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

G. Any sheriff or local police department, in accordance with written authorization or approval from the local governing body, may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

§ 59.1-364. Control of racing with pari-mutuel wagering.

A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people. The Virginia Racing Commission is vested with control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The Virginia Racing Commission shall encourage participation by local individuals and businesses in those activities associated with horse racing.

2642 B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or
2643 wagering and entrance to any place where such racing or wagering is conducted is a privilege which
2644 may be granted or denied by the Commission or its duly authorized representatives in its discretion in
2645 order to effectuate the purposes set forth in this chapter.

2646 C. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility
2647 licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview
2648 of § 11-14.

2649 *D. This section shall not apply to any sports wagering or related activity that is lawful under Article*
2650 *2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, which shall be regulated pursuant to such article.*

2651 **§ 59.1-569. Fantasy contests not illegal gambling or sports wagering.**

2652 A. Nothing contained in Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 shall be applicable
2653 to a fantasy contest conducted in accordance with this chapter. The award of any prize money for any
2654 fantasy contest shall not be deemed to be part of any gaming contract within the purview of § 11-14.

2655 *B. This section shall not apply to any sports wagering or related activity that is lawful under Article*
2656 *2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, which shall be regulated pursuant to such article.*