

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 401

An Act to amend and reenact §§ 2.2-200, 2.2-205, 2.2-206, 2.2-215, 2.2-220.1, 2.2-220.2, 2.2-220.3, 2.2-1156, 2.2-1176, 2.2-2316, 2.2-2338, 2.2-2481, 2.2-2699.10, 2.2-2699.11, 2.2-2699.13, 10.1-603.25, 10.1-704, 10.1-1018, 10.1-1181.15, 10.1-1188, 10.1-1329, 10.1-1402.03, 10.1-1402.04, 10.1-1405, 10.1-2129, 10.1-2202.3, 15.2-2295.1, 28.2-207, 29.1-102, 29.1-573, 29.1-579, 30-377, 56-596.2, 58.1-344.3, 62.1-44.15:68, 62.1-44.34:25, 62.1-44.34:28, 62.1-44.117, 62.1-44.118, 62.1-44.119:1, 62.1-69.31, 62.1-69.32, 62.1-69.33, 62.1-69.41, 62.1-69.52, and 62.1-195.1 of the Code of Virginia, relating to the Secretary of Natural Resources.

[H 1836]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-200, 2.2-205, 2.2-206, 2.2-215, 2.2-220.1, 2.2-220.2, 2.2-220.3, 2.2-1156, 2.2-1176, 2.2-2316, 2.2-2338, 2.2-2481, 2.2-2699.10, 2.2-2699.11, 2.2-2699.13, 10.1-603.25, 10.1-704, 10.1-1018, 10.1-1181.15, 10.1-1188, 10.1-1329, 10.1-1402.03, 10.1-1402.04, 10.1-1405, 10.1-2129, 10.1-2202.3, 15.2-2295.1, 28.2-207, 29.1-102, 29.1-573, 29.1-579, 30-377, 56-596.2, 58.1-344.3, 62.1-44.15:68, 62.1-44.34:25, 62.1-44.34:28, 62.1-44.117, 62.1-44.118, 62.1-44.119:1, 62.1-69.31, 62.1-69.32, 62.1-69.33, 62.1-69.41, 62.1-69.52, and 62.1-195.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-200. Appointment of Governor's Secretaries; general powers; severance.

A. The Governor's Secretaries shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Each Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor is appointed and qualified. Before entering upon the discharge of duties, each Secretary shall take an oath to faithfully execute the duties of the office.

B. Each Secretary shall be subject to direction and supervision by the Governor. Except as provided in Article 4 (§ 2.2-208 et seq.), the agencies assigned to each Secretary shall:

1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;
2. Provide such assistance to the Governor or the Secretary as may be required; and
3. Forward all reports to the Governor through the Secretary.

C. Unless the Governor expressly reserves such power to himself and except as provided in Article 4 (§ 2.2-208 et seq.), each Secretary may:

1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;
2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.2-1508 encompassing the services of agencies assigned for consideration by the Governor;
3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;
4. Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government;
5. Sign documents on behalf of the Governor that originate with agencies assigned to the Secretary; and

6. Employ such personnel and to contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by law or executive order.

D. Severance benefits provided to any departing Secretary shall be publicly announced by the Governor prior to such departure.

E. As used in this chapter, "Governor's Secretaries" means the Secretary of Administration, the Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Education, the Secretary of Finance, the Secretary of Health and Human Resources, the Secretary of Natural *and Historic* Resources, the Secretary of Public Safety and Homeland Security, the Secretary of Transportation, and the Secretary of Veterans and Defense Affairs.

§ 2.2-205. Economic development policy for the Commonwealth.

A. During the first year of each new gubernatorial administration, the Secretary, with the assistance of a cabinet-level committee appointed in accordance with subsection B, shall develop and implement a written comprehensive economic development policy for the Commonwealth. In developing this policy, the Secretary and the committee shall review the economic development policy in effect at the commencement of the Governor's term of office. The Secretary shall make such revisions to the existing

policy as the Secretary deems necessary to ensure that it is appropriate for the Commonwealth. Once the policy has been adopted by the Secretary and the committee and approved by the Governor, it shall be submitted to the General Assembly for its consideration.

B. During the first year of each new gubernatorial administration, the Governor shall issue an executive order creating a cabinet-level committee to assist the Secretary in the development of the comprehensive economic development policy for the Commonwealth. The Secretary shall be the chairman of the committee, and the Secretaries of Administration, Agriculture and Forestry, Education, Health and Human Resources, Natural *and Historic* Resources, and Transportation shall serve as committee members. The Governor may also appoint members of regional and local economic development groups and members of the business community to serve on the committee.

§ 2.2-206. Urban issues; report; responsibilities of the Secretary.

A. In order to evaluate and promote the economic potential and development of the urban areas in the Commonwealth, during the first year of each new gubernatorial administration, the Secretary, with the assistance of a cabinet-level committee appointed in accordance with subsection B, shall develop a report on the condition of the state's urban areas and establishing priorities for addressing those conditions. The report shall include the following components:

1. A review of economic and social conditions in the cities of the Commonwealth;
2. The identification of inequities between those urban areas experiencing economic growth and relatively low fiscal stress and those urban areas experiencing economic decline and relatively high levels of fiscal stress;
3. The establishment of specific and quantifiable benchmarks for addressing economic and social conditions and inequities within urban areas;
4. Prioritized recommendations for specific actions by state agencies intended to meet the established performance benchmarks within a prescribed schedule; and
5. A system for tracking agency progress in meeting the benchmarks during the succeeding biennia.

B. During the first year of each new gubernatorial administration, the Governor shall issue an executive order creating a cabinet-level committee to assist the Secretary in the development of an urban policy vision and priorities for the Commonwealth. The Secretary shall be the chairman of the committee, and the Secretaries of Education, Health and Human Resources, Natural *and Historic* Resources and Transportation shall serve as committee members. The Governor may also appoint representatives of local government from Virginia's urban areas to serve as committee members. During the third year of each new gubernatorial administration the Secretary shall review and report on the performance of each agency in meeting the established benchmarks.

Article 7.

Secretary of Natural *and Historic* Resources.

§ 2.2-215. Position established; agencies for which responsible.

The position of Secretary of Natural *and Historic* Resources (the Secretary) is created. The Secretary shall *serve as the Chief Resilience Officer for the purposes of duties required pursuant to § 2.2-222.4, and shall* be responsible to the Governor for the following agencies: Department of Conservation and Recreation, Department of Historic Resources, Marine Resources Commission, Department of Wildlife Resources; ~~Virginia Museum of Natural History~~, and the Department of Environmental Quality. The Governor may, by executive order, assign any state executive agency to the Secretary of Natural *and Historic* Resources, or reassign any agency listed in this section to another Secretary.

§ 2.2-220.1. Chesapeake Bay Watershed Agreement; annual report.

By November 1 of each year, the Secretary of Natural *and Historic* Resources shall report to the Governor and the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources on the implementation of the 2014 Chesapeake Bay Watershed Agreement. The Secretary may use documents, reports, and other materials developed in cooperation with other signatories to the agreement, including the U.S. Environmental Protection Agency and other relevant federal agencies or nongovernmental organizations, to fulfill this reporting requirement.

§ 2.2-220.2. Development of strategies to prevent the introduction of, to control, and to eradicate invasive species.

A. The Secretaries of Natural *and Historic* Resources and Agriculture and Forestry shall coordinate the development of strategic actions to be taken by the Commonwealth, individual state and federal agencies, private businesses, and landowners related to invasive species prevention, early detection and rapid response, control and management, research and risk assessment, and education and outreach. Such strategic actions shall include the development of a state invasive species management plan. The plan shall include a list of invasive species that pose the greatest threat to the Commonwealth. The primary purposes of the plan shall be to address the rising cost of invasive species, to improve coordination among state and federal agencies' efforts regarding invasive species prevention and management and information exchange, and to educate the public on related matters. The Secretaries of Natural *and Historic* Resources and Agriculture and Forestry shall update the state invasive species management plan at least once every four years. The Department of Conservation and Recreation shall provide staff

support.

B. The Secretary of Natural *and Historic* Resources shall establish and serve as chair of an advisory group to develop an invasive species management plan and shall coordinate and implement recommendations of that plan. Other members of the advisory group shall include the Departments of Conservation and Recreation, Wildlife Resources, Environmental Quality, Forestry, Agriculture and Consumer Services, Health, and Transportation; the Marine Resources Commission; the Virginia Cooperative Extension; the Virginia Institute of Marine Science; representatives of the agriculture and forestry industries; the conservation community; interested federal agencies; academic institutions; and commercial interests. The Secretary of Agriculture and Forestry shall serve as the vice-chair of the advisory group. The advisory group shall meet at least twice per year and shall utilize ad hoc committees as necessary with special emphasis on working with affected industries, landowners, and citizens, and shall assist the Secretary to:

1. Prevent additional introductions of invasive species to the lands and waters of the Commonwealth;
2. Procure, use, and maintain native species to replace invasive species;
3. Implement targeted control efforts on those invasive species that are present in the Commonwealth but are susceptible to such management actions;
4. Identify and report the appearance of invasive species before they can become established and control becomes less feasible;
5. Implement immediate control measures if a new invasive species is introduced in Virginia, with the aim of eradicating that species from Virginia's lands and waters if feasible given the degree of infestation; and
6. Recommend legislative actions or pursue federal grants to implement the plan.

C. As used in this section, "invasive species" means a species, including its seeds, eggs, spores or other biological material capable of propagating that species, that is not native to the ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health; however, this definition shall not include (i) any agricultural crop generally recognized by the United States Department of Agriculture or the Virginia Department of Agriculture and Consumer Services as suitable to be grown in the Commonwealth, or (ii) any aquacultural organism recognized by the Marine Resources Commission or the Department of Wildlife Resources as suitable to be propagated in the Commonwealth.

Nothing in this section shall affect the authorities of any agency represented on the advisory group with respect to invasive species.

§ 2.2-220.3. Development of strategies to collect land use and conservation information.

The Secretary of Natural *and Historic* Resources, with assistance from the Secretary of Agriculture and Forestry, shall establish and maintain a database of the critical data attributes for onsite best management practices implemented in the Commonwealth that limit the amount of nutrients and sediment entering state waters. The database shall document voluntary actions taken by the agricultural and silvicultural sectors and should enable the application of the collected data towards projections of progress towards Virginia's water quality goals by sharing the data with the appropriate federal or state agencies. To the extent possible or appropriate, the database shall (i) be uniform in content and format to applications in the other states of the Chesapeake Bay watershed, (ii) maintain the confidentiality of information, and (iii) use existing methods of data collection including reports to the U.S. Department of Agriculture's Farm Service Agency, soil and water conservation districts, and localities for the purpose of land use valuation. Any information collected pursuant to this section shall be exempt from the Freedom of Information Act (§ 2.2-3700 et seq.).

§ 2.2-1156. Sale or lease of surplus property and excess building space.

A. The Department shall identify real property assets that are surplus to the current and reasonably anticipated future needs of the Commonwealth and may dispose of surplus assets as provided in this section, except when a department, agency or institution notifies the Department of a need for property that has been declared surplus, and the Department finds that stated need to be valid and best satisfied by the use of the property.

B. After it determines the property to be surplus to the needs of the Commonwealth and that such property should be sold, the Department shall request the written opinion of the Secretary of Natural *and Historic* Resources as to whether the property is a significant component of the Commonwealth's natural or historic resources, and if so how those resources should be protected in the sale of the property. The Secretary of Natural *and Historic* Resources shall provide this review within 15 business days of receipt of full information from the Department. Within 120 days of receipt of the Secretary's review, the Department shall, with the prior written approval of the Governor, proceed to sell the property.

C. Upon receipt of the Secretary's review under subsection B and prior to offering the surplus property for sale to the public, the Department shall notify the chief administrative officer of the locality within which the property is located as well as any economic development entity for such locality of the pending disposition of such property. The chief administrative officer or local economic development entity shall have up to 180 days from the date of such notification to submit a proposal to the

Department for the use by the locality or the local economic development entity of such property in conjunction with a bona fide economic development activity. The Department shall review such proposal, and if the Department determines that such proposal is viable and could benefit the Commonwealth, the Department may negotiate with the chief administrative officer or the local economic development entity for the sale of such property to the locality or economic development entity. If no agreement is reached between the Department and the chief administrative officer or the local economic development entity for the sale of the property, or if no proposal for the use of the property is submitted to the Department by the chief administrative officer or the local economic development entity within 180 days of notification of the pending disposition of the property, the Department may proceed to dispose of the property as provided in this section.

D. If the surplus property is not disposed of pursuant to subsection C, the sale shall be by public auction, or sealed bids, or by marketing through one or more real estate brokers licensed by the Commonwealth. Notice of the date, time and place of sale, if by public auction or sealed bids shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the county or city in which the property to be sold is located. At least 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened.

E. In instances where the appraised value of property proposed to be sold is determined to be a nominal amount or an amount insufficient to warrant statewide advertisement, but in no event in excess of \$250,000, the notice of sale may be placed in only one newspaper having general circulation in the county or city in which the property to be sold is located.

F. The Department may reject any and all bids or offers when, in the opinion of the Department, the price is inadequate in relation to the value of the property, the proposed terms are unacceptable, or if a need has been found for the property.

G. In lieu of the sale of any such property, or in the event the Department determines there is space within a building owned by the Commonwealth or any space leased by the Commonwealth in excess of current and reasonably anticipated needs, the Department may, with the approval of the Governor, lease or sublease such property or space to any responsible person, firm or corporation on such terms as shall be approved by the Governor, provided, however, that the authority herein to sublease space leased by the Commonwealth shall be subject to the terms of the original lease. The Department may with the approval of the Governor permit charitable organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code that provide addiction recovery services to lease or sublease such property or space at cost and on such terms as shall be approved by the Governor, provided such use is deemed appropriate.

The Department shall post reports from the Commonwealth's statewide electronic procurement system, known as eVA, on the Department's website. The report shall include, at a minimum, current leasing opportunities and sales of surplus real property posted on the eVA's Virginia Business Opportunities website. Such reports shall also be made available by electronic subscription. The provisions of this section requiring disposition of property through the medium of sealed bids, public auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although such procedures may be followed in the discretion of the Department.

H. The deed, lease, or sublease conveying the property or excess space shall be executed in the name of the Commonwealth and shall be in a form approved by the Attorney General. Notwithstanding any law to the contrary and notwithstanding how title to the property was acquired, the deed or lease may be executed on behalf of the Commonwealth by the Director of the Department or his designee, and such action shall not create a cloud on the title to the property. The terms of the sale, lease, or sublease shall be subject to the written approval of the Governor.

I. An exception to sale by sealed bids, public auction, or listing the property with a licensed real estate broker may be granted by the Governor if the property is landlocked and inaccessible from a public road or highway. In such cases, the Department shall notify all adjacent landowners of the Commonwealth's desire to dispose of the property. After the notice has been given, the Department may begin negotiations for the sale of the property with each interested adjacent landowner. The Department, with the approval of the Governor, may accept any offer that it deems to be fair and adequate consideration for the property. In all cases, the offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

J. Subject to any law to the contrary, 50 percent of the proceeds from all sales or leases, or from the conveyance of any interest in property under the provisions of this article, above the costs of the transaction, which costs shall include fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid into the State Park Acquisition and Development Fund, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining 50 percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of the transactions, shall be deposited in the general fund of the state treasury. The Department of Planning and Budget shall develop guidelines that allow, with the approval of the Governor, any portion

of the deposit in the general fund to be credited to the agency, department or institution having control of the property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited to an agency, department or institution may be used, upon appropriation, to supplement maintenance reserve funds or capital project appropriations, or for the acquisition, construction or improvement of real property or facilities. Net proceeds from sales or leases of special fund agency properties or property acquired through a gift for a specific purpose shall be retained by the agency or used in accordance with the original terms of the gift. Notwithstanding the foregoing, income from leases or subleases above the cost of the transaction shall first be applied to rent under the original lease and to the cost of maintenance and operation of the property. The remaining funds shall be distributed as provided herein.

K. When the Department deems it to be in the best interests of the Commonwealth, it may, with the approval of the Governor, authorize the department, institution or agency in possession or control of the property to dispose of surplus property in accordance with the procedures set forth in this section.

§ 2.2-1176. Approval of purchase, lease, or contract rental of motor vehicle.

A. No motor vehicle shall be purchased, leased, or subject to a contract rental with public funds by the Commonwealth or by any officer or employee on behalf of the Commonwealth without the prior written approval of the Director. No lease or contract rental shall be approved by the Director except upon demonstration that the cost of such lease or contract rental plus operating costs of the vehicle shall be less than comparable costs for a vehicle owned by the Commonwealth.

Notwithstanding the provisions of this subsection, the Virginia Department of Transportation shall be exempted from the approval of purchase, lease, or contract rental of motor vehicles used directly in carrying out its maintenance, operations, and construction programs.

B. Notwithstanding other provisions of law, on or before January 1, 2012, the Director, in conjunction with the Secretary of Administration and the Secretary of Natural *and Historic* Resources, shall establish a plan providing for the replacement of state-owned or operated vehicles with vehicles that operate using natural gas, electricity, or other alternative fuels, to the greatest extent practicable, considering available infrastructure, the location and use of vehicles, capital and operating costs, and potential for fuel savings. The plan shall be submitted to the Governor for his review and approval. Once the plan is approved by the Governor, the Director shall implement the plan for the centralized fleet. All state agencies and institutions shall cooperate with the Director in developing and implementing the plan.

§ 2.2-2316. Executive Director; Board of Directors; members and officers.

A. Notwithstanding the provisions of § 2.2-2318, all powers, rights and duties conferred by this article or other provisions of law upon the Authority shall be exercised by an Executive Director with the advice and comment of a Board of Directors. The Board of Directors shall be an advisory board within the meaning of § 2.2-2100.

B. The Board of Directors shall consist of the Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Finance, the Secretary of Natural *and Historic* Resources, the Lieutenant Governor, and 12 members appointed by the Governor, subject to confirmation by the General Assembly. The members of the Board appointed by the Governor shall serve terms of six years. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation or removal created the vacancy. All members of the Board shall be residents of the Commonwealth. Members may be appointed to successive terms on the Board of Directors. The Governor shall make appointments in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth.

Each member of the Board shall be reimbursed for his reasonable expenses incurred in attendance at meetings or when otherwise engaged in the business of the Authority and shall be compensated at the rate provided in § 2.2-2104 for each day or portion thereof in which the member is engaged in the business of the Authority.

C. The Governor shall designate one member of the Board as chairman. The Board may elect one member as vice-chairman, who shall exercise the powers of chairman in the absence of the chairman or as directed by the chairman. The Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Finance, the Secretary of Natural *and Historic* Resources, and the Lieutenant Governor shall not be eligible to serve as chairman or vice-chairman.

D. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine members of the Board shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board present at any regular or special meeting at which a quorum is present shall be an act of the Board of Directors.

E. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his office or employment by reason of acceptance of membership on the Board or by providing service to the Authority.

§ 2.2-2338. Board of Trustees; membership.

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth of Virginia to be known as the Fort Monroe Authority, to be governed by a Board of

Trustees (Board) consisting of 14 members appointed as follows: the Secretary of Natural *and* Historic Resources and the Secretary of Commerce and Trade, or their successor positions if those positions no longer exist, from the Governor's cabinet; the member of the Senate of Virginia and the member of the House of Delegates representing the district in which Fort Monroe lies; two members appointed by the Hampton City Council; and eight nonlegislative citizen members appointed by the Governor, seven of whom shall have expertise relevant to the implementation of the Fort Monroe Reuse Plan, including but not limited to the fields of historic preservation, tourism, environment, real estate, finance, and education, and one of whom shall be a citizen representative from the Hampton Roads region. The Secretary of Natural *and* Historic Resources and the Secretary of Commerce and Trade shall serve ex officio without voting privileges and may send their deputies or another cabinet member to meetings in the event that official duties require their presence elsewhere. Cabinet members and elected representatives shall serve terms commensurate with their terms of office. Legislative members may send another legislator to meetings as full voting members in the event that official duties require their presence elsewhere.

The Board so appointed shall enter upon the performance of its duties and shall initially and annually thereafter elect one of its members as chairman and another as vice-chairman. The Board shall also elect annually a secretary, who shall be a member of the Board, and a treasurer, who need not be a member of the Board, or a secretary-treasurer, who need not be a member of the Board. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board, and in the absence of both the chairman and vice-chairman, the Board shall elect a chairman pro tempore who shall preside at such meetings. Seven Trustees shall constitute a quorum, and all action by the Board shall require the affirmative vote of a majority of the Trustees present and voting, except that any action to amend or terminate the existing Reuse Plan, or to adopt a new Reuse Plan, shall require the affirmative vote of 75 percent or more of the Trustees present and voting. The members of the Board shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority.

§ 2.2-2481. Powers and duties of the Board.

The Board shall have the power and duty to:

1. Advise the Governor, the Secretaries of Health and Human Resources, Education, and Natural *and* Historic Resources, the Assistant to the Governor for Commonwealth Preparedness, the State Board of Social Services, and other appropriate officials on national and community service programs in Virginia in order to (i) fulfill the responsibilities and duties prescribed by the federal Corporation for National and Community Service and (ii) develop, implement, and evaluate the Virginia State Service Plan, which outlines strategies for supporting and expanding national and community service throughout the Commonwealth.

2. Promote the use of AmeriCorps programs to meet Virginia's most pressing human, educational, environmental, and public safety needs.

3. Collaborate with the Department of Social Services and other public and private entities to recognize and call attention to the significant community service contributions of Virginia citizens and organizations.

4. Assist the Department of Social Services to promote the involvement of faith-based organizations in community and national service efforts.

5. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman of the Board shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 2.2-2699.10. Membership; terms; quorum; meetings.

A. The Council shall have a total membership of 27 members that shall consist of 21 nonlegislative citizen members and six ex officio members. Nonlegislative citizen members shall be appointed by the Governor. The Secretaries of Natural *and* Historic Resources, Commerce and Trade, Agriculture and Forestry, Health and Human Resources, Education, and Transportation, or their designees, including their agency representatives, shall serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Council shall be residents of the Commonwealth and shall include representatives of (i) American Indian tribes, (ii) community-based organizations, (iii) the public health sector, (iv) nongovernmental organizations, (v) civil rights organizations, (vi) institutions of higher education, and (vii) communities impacted by an industrial, governmental, or commercial operation, program, or policy.

Ex officio members of the Council shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. After the initial staggering of

terms, nonlegislative citizen members shall be appointed for a term of four years.

B. The Council shall elect a chairperson and vice-chairperson annually from among the membership of the Council. A majority of the members shall constitute a quorum. The meetings of the Council shall be held at the call of the chairperson or whenever the majority of the members so request.

C. The Council shall meet quarterly and shall establish a meeting schedule on an annual basis. When possible, the location of the meetings shall rotate among different geographic regions. When possible, meetings shall be broadcast on the Internet or via teleconference. Each meeting shall include an in-person public comment component.

The Council may provide for the creation of subcommittees. Any subcommittee meetings shall be scheduled with notification to the full Council.

§ 2.2-2699.11. Compensation; expenses; staffing.

A. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the Secretary of Natural *and* Historic Resources.

B. The Office of the Governor and the Secretary of Natural *and* Historic Resources shall provide staff support to the Council. All agencies of the Commonwealth shall provide assistance to the Council, upon request.

§ 2.2-2699.13. (Expires June 30, 2023) Plastic Waste Prevention Advisory Council; purpose; membership; compensation; chairman.

A. The Plastic Waste Prevention Advisory Council (the Council) is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council is to advise the Governor on policy and funding priorities to eliminate plastic waste impacting native species and polluting the Commonwealth's environment and to contribute to achieving plastics packaging circular economy industry standards.

B. The Council shall have a total membership of 10 members that shall consist of two legislative members, four nonlegislative citizen members, and four ex officio members. Members shall be appointed as follows: the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources, or their designees, and four nonlegislative citizen members to be appointed by the Governor, subject to confirmation by the General Assembly. The Director of the Department of Environmental Quality or his designee, the State Health Commissioner or his designee, and the presidents of the Virginia Chamber of Commerce and the Virginia Manufacturers Association or their designees shall serve ex officio with voting privileges. Nonlegislative citizen members of the Council shall be citizens of the Commonwealth.

Legislative members and ex officio members of the Council shall serve terms coincident with their terms of office. Gubernatorial appointees shall serve for terms of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

No nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. Legislative members of the Council shall receive such compensation as provided in § 30-19.12. Nonlegislative citizen members shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of legislative members shall be provided by the operating budgets of the Clerk of the House of Delegates and the Clerk of the Senate upon approval of the Joint Rules Committee. Funding for the costs of expenses of the nonlegislative citizen members and all other expenses of the Council shall be provided by the Office of the Secretary of Natural *and* Historic Resources.

D. The Council shall elect a chairman and a vice-chairman annually from among its membership. A majority of the members shall constitute a quorum. The meetings of the Council shall be held at the call of the chairman or whenever the majority of the members so request.

E. The Department of Environmental Quality shall provide staff support to the Council. All agencies of the Commonwealth shall provide assistance to the Council, upon request.

§ 10.1-603.25. Virginia Community Flood Preparedness Fund; loan and grant program.

A. The Virginia Shoreline Resiliency Fund is hereby continued as a permanent and perpetual fund to be known as the Virginia Community Flood Preparedness Fund. All sums that are designated for deposit in the Fund from revenue generated by the sale of emissions allowances pursuant to subdivision C 1 of § 10.1-1330, all sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from the repayment of loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private, including any federal grants and awards or other forms of assistance received by the Commonwealth that are eligible for deposit in the Fund under federal law, shall be designated for deposit 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 any appropriated funds and all principal, interest accrued, and payments, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All loans and grants provided under this article shall be deemed to promote the public purposes of enhancing flood prevention or protection and coastal resilience.

B. Moneys in the Fund shall be used solely for the purposes of enhancing flood prevention or protection and coastal resilience as required by this article. The Authority shall manage the Fund and shall establish interest rates and repayment terms of such loans as provided in this article in accordance with a memorandum of agreement with the Department. The Authority may disburse from the Fund its reasonable costs and expenses incurred in the management of the Fund. The Department shall direct distribution of loans and grants from the Fund in accordance with the provisions of subsection D.

C. The Authority is authorized at any time and from time to time to pledge, assign, or transfer from the Fund or any bank or trust company designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of principal of, premium, if any, and interest on any and all bonds, as defined in § 62.1-199, issued to finance any flood prevention or protection project undertaken pursuant to the provisions of this article. In addition, the Authority is authorized at any time and from time to time to sell upon such terms and conditions as the Authority deems appropriate any loan or interest thereon made pursuant to this article. The net proceeds of the sale remaining after payment of costs and expenses shall be designated for deposit to, and become part of, the Fund.

D. The Fund shall be administered by the Department as prescribed in this article. The Department, in consultation with the Secretary of Natural *and* Historic Resources and the Special Assistant to the Governor for Coastal Adaptation and Protection, shall establish guidelines regarding the distribution and prioritization of loans and grants, including loans and grants that support flood prevention or protection studies of statewide or regional significance.

E. Localities shall use moneys from the Fund primarily for the purpose of implementing flood prevention and protection projects and studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager. Moneys in the Fund may be used to mitigate future flood damage and to assist inland and coastal communities across the Commonwealth that are subject to recurrent or repetitive flooding. No less than 25 percent of the moneys disbursed from the Fund each year shall be used for projects in low-income geographic areas. Priority shall be given to projects that implement community-scale hazard mitigation activities that use nature-based solutions to reduce flood risk.

F. Any locality is authorized to secure a loan made pursuant to this section by placing a lien up to the value of the loan against any property that benefits from the loan. Such a lien shall be subordinate to each prior lien on such property, except prior liens for which the prior lienholder executes a written subordination agreement, in a form and substance acceptable to the prior lienholder in its sole and exclusive discretion, that is recorded in the land records where the property is located.

G. Any locality using moneys in the Fund to provide a loan for a project in a low-income geographic area is authorized to forgive the principal of such loan. If a locality forgives the principal of any such loan, any obligation of the locality to repay that principal to the Commonwealth shall not be forgiven and such obligation shall remain in full force and effect. The total amount of loans forgiven by all localities in a fiscal year shall not exceed 30 percent of the amount appropriated in such fiscal year to the Fund by the General Assembly.

§ 10.1-704. Use of dredged material for beach nourishment; priority.

The beaches of the Commonwealth shall be given priority consideration as sites for the disposal of that portion of dredged material determined to be suitable for beach nourishment. The Secretary of Natural *and* Historic Resources shall have the responsibility of determining whether the dredged material is suitable for beach nourishment.

§ 10.1-1018. Virginia Land Conservation Board of Trustees; membership; terms; vacancies; compensation and expenses.

A. The Foundation shall be governed and administered by a Board of Trustees. The Board shall have a total membership of 19 members that shall consist of 17 citizen members and two ex officio voting members as follows: four citizen members, who may be members of the House of Delegates, to be appointed by the Speaker of the House of Delegates and, if such members are members of the House of Delegates, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two citizen members, who may be members of the Senate, to be appointed by the Senate Committee on Rules; 11 nonlegislative citizen members, one from each congressional district, to be appointed by the Governor; and the Secretary of Natural *and* Historic Resources, or his designee, and the Secretary of Agriculture and Forestry, or his designee, to serve ex officio with voting privileges. Nonlegislative citizen members shall be appointed for four-year terms, except that initial appointments shall be made for terms of one to four years in a manner whereby no more than six members shall have terms that expire in the same year. Legislative members and the ex officio member shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. However, no Senate member shall serve more than two

consecutive four-year terms, no House member shall serve more than four consecutive two-year terms and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Nonlegislative citizen members shall have experience or expertise, professional or personal, in one or more of the following areas: natural resource protection and conservation, construction and real estate development, natural habitat protection, environmental resource inventory and identification, forestry management, farming, farmland preservation, fish and wildlife management, historic preservation, and outdoor recreation. At least one of the nonlegislative citizen members shall be a farmer. Members of the Board shall post bond in the penalty of \$5,000 with the State Comptroller prior to entering upon the functions of office.

B. The Secretary of Natural *and* Historic Resources shall serve as the chairman of the Board of Trustees. The chairman shall serve until his successor is appointed. The members appointed as provided in subsection A shall elect a vice-chairman annually from among the members of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The board shall meet at the call of the chairman or whenever a majority of the members so request.

C. Trustees of the Foundation shall receive no compensation for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties on behalf of the Foundation as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the Department of Conservation and Recreation.

D. The chairman of the Board and any other person designated by the Board to handle the funds of the Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation for such purpose.

E. The Board shall seek assistance in developing grant criteria and advice on grant priorities and any other appropriate issues from a task force consisting of the following agency heads or their designees: the Director of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services, the State Forester, the Director of the Department of Historic Resources, the Director of the Department of Wildlife Resources and the Executive Director of the Virginia Outdoors Foundation. The Board may request any other agency head to serve on or appoint a designee to serve on the task force.

§ 10.1-1181.15. Forest mitigation agreements.

A. The Secretary of Natural *and* Historic Resources, the Secretary of Agriculture and Forestry, or any agency within those secretariats, or the Virginia Outdoors Foundation may enter into an agreement with the owner or operator of construction projects to accomplish forest mitigation. At a minimum, any such agreement shall:

1. Document the extent to which the construction project has been designed to avoid and minimize adverse impacts to forests;
2. Provide funding for compensation for impacts that approximates at least no net loss of forest acreage and function;
3. Provide for the payment of such funds by the owner or operator to a nonprofit organization, the Virginia Outdoors Foundation, or an agency within the secretariats of Agriculture and Forestry or Natural *and* Historic Resources. The recipient of the funds shall establish criteria for the expenditure of the funds, shall provide such criteria to the public, and shall regularly provide to the public updated information on how funds are spent; and
4. Ensure that expenditures of the funds occur in reasonable proximity to the forest impacts that are caused by the construction project. Reasonable proximity shall be determined by the recipient of the funds and shall be based on appropriate ecological boundaries, with consideration given to communities adversely affected by the construction project.

B. Nothing in this section shall preclude the expenditure of funds (i) by the recipient of the funds for the costs of administration of the funds or (ii) for water quality protection and improvement, land conservation, or environmental education.

C. No agreement entered into pursuant to this article shall identify any specific expenditure.

D. No agreement entered into pursuant to this article shall include any waiver of liability for environmental damage caused by the construction project. No agreement entered into under this article shall guarantee regulatory approval for a construction project by any state agency.

E. No forest mitigation agreement entered into pursuant to this article shall prohibit sustainable forest management on a property receiving funding except as necessary to comply with a requirement of the Commonwealth that specific conservation values be protected on such property.

§ 10.1-1188. State agencies to submit environmental impact reports on major projects.

A. All state agencies, boards, authorities and commissions or any branch of the state government shall prepare and submit an environmental impact report to the Department on each major state project.

"Major state project" means the acquisition of an interest in land for any state facility construction, or the construction of any facility or expansion of an existing facility which is hereafter undertaken by

any state agency, board, commission, authority or any branch of state government, including public institutions of higher education, which costs \$500,000 or more. For the purposes of this chapter, authority shall not include any industrial development authority created pursuant to the provisions of Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2 or Chapter 643, as amended, of the 1964 Acts of Assembly. Nor shall it include the Virginia Port Authority created pursuant to the provisions of § 62.1-128, unless such project is a capital project that costs in excess of \$5 million. Nor shall authority include any housing development or redevelopment authority established pursuant to state law. For the purposes of this chapter, branch of state government shall include any county, city or town of the Commonwealth only in connection with highway construction, reconstruction, or improvement projects affecting highways or roads undertaken by the county, city, or town on projects estimated to cost more than \$2 million. For projects undertaken by any locality costing more than \$500,000 and less than \$2 million, the locality shall consult with the Department of Historic Resources to consider and make reasonable efforts to avoid or minimize impacts to historic resources if the project involves a new location or a new disturbance that extends outside the area or depth of a prior disturbance, or otherwise has the potential to affect such resources adversely.

Such environmental impact report shall include, but not be limited to, the following:

1. The environmental impact of the major state project, including the impact on wildlife habitat;
2. Any adverse environmental effects which cannot be avoided if the major state project is undertaken;
3. Measures proposed to minimize the impact of the major state project;
4. Any alternatives to the proposed construction; and
5. Any irreversible environmental changes which would be involved in the major state project.

For the purposes of subdivision 4, the report shall contain all alternatives considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives were not considered.

B. For purposes of this chapter, this subsection shall only apply to the review of highway and road construction projects or any part thereof. The Secretaries of Transportation and Natural *and* Historic Resources shall jointly establish procedures for review and comment by state natural and historic resource agencies of highway and road construction projects. Such procedures shall provide for review and comment on appropriate projects and categories of projects to address the environmental impact of the project, any adverse environmental effects which cannot be avoided if the project is undertaken, the measures proposed to minimize the impact of the project, any alternatives to the proposed construction, and any irreversible environmental changes which would be involved in the project.

§ 10.1-1329. Definitions.

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

"Allowance" means an authorization to emit a fixed amount of carbon dioxide.

"Allowance auction" means an auction in which the Department or its agent offers allowances for sale.

"DHCD" means the Department of Housing and Community Development.

"DMME" means the Department of Mines, Minerals and Energy.

"Energy efficiency program" has the same meaning as provided in § 56-576.

"Fund" means the Virginia Community Flood Preparedness Fund created pursuant to § 10.1-603.25.

"Housing development" means the same as that term is defined in § 36-141.

"Regional Greenhouse Gas Initiative" or "RGGI" means the program to implement the memorandum of understanding between signatory states dated December 20, 2005, and as may be amended, and the corresponding model rule that established a regional carbon dioxide electric power sector cap and trade program.

"Secretary" means the Secretary of Natural *and* Historic Resources.

§ 10.1-1402.03. Closure of certain coal combustion residuals units.

A. For the purposes of this section only:

"Carrying cost" means the cost associated with financing expenditures incurred but not yet recovered from the electric utility's customers, and shall be calculated by applying the electric utility's weighted average cost of debt and equity capital, as determined by the State Corporation Commission, with no additional margin or profit, to any unrecovered balances.

"CCR landfill" means an area of land or an excavation that receives CCR and is not a surface impoundment, underground injection well, salt dome formation, salt bed formation, underground or surface coal mine, or cave and that is owned or operated by an electric utility.

"CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area that (i) is designed to hold an accumulation of CCR and liquids; (ii) treats, stores, or disposes of CCR; and (iii) is owned or operated by an electric utility.

"CCR unit" means any CCR landfill, CCR surface impoundment, lateral expansion of a CCR unit, or combination of two or more such units that is owned by an electric utility. Notwithstanding the provisions of 40 C.F.R. Part 257, "CCR unit" also includes any CCR below the unit boundary of the CCR landfill or CCR surface impoundment.

"Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by an electric utility.

"Encapsulated beneficial use" means a beneficial use of CCR that binds the CCR into a solid matrix and minimizes its mobilization into the surrounding environment.

The definitions in this subsection shall be interpreted in a manner consistent with 40 C.F.R. Part 257, except as expressly provided in this section.

B. The owner or operator of any CCR unit located within the Chesapeake Bay watershed at the Bremon Power Station, Chesapeake Energy Center, Chesterfield Power Station, and Possum Point Power Station that ceased accepting CCR prior to July 1, 2019, shall complete closure of such unit by (i) removing all of the CCR in accordance with applicable standards established by Virginia Solid Waste Management Regulations (9VAC20-81) and (ii) either (a) beneficially reusing all such CCR in a recycling process for encapsulated beneficial use or (b) disposing of the CCR in a permitted landfill on the property upon which the CCR unit is located, adjacent to the property upon which the CCR unit is located, or off of the property on which the CCR unit is located, that includes, at a minimum, a composite liner and leachate collection system that meets or exceeds the federal Criteria for Municipal Solid Waste Landfills pursuant to 40 C.F.R. Part 258. The owner or operator shall beneficially reuse a total of no less than 6.8 million cubic yards in aggregate of such removed CCR from no fewer than two of the sites listed in this subsection where CCR is located.

C. The owner or operator shall complete the closure of any such CCR unit required by this section no later than 15 years after initiating the closure process at that CCR unit. During the closure process, the owner or operator shall, at its expense, offer to provide a connection to a municipal water supply, or where such connection is not feasible provide water testing, for any residence within one-half mile of the CCR unit.

D. Where closure pursuant to this section requires that CCR or CCR that has been beneficially reused be removed off-site, the owner or operator shall develop a transportation plan in consultation with any county, city, or town in which the CCR units are located and any county, city, or town within two miles of the CCR units that minimizes the impact of any transport of CCR on adjacent property owners and surrounding communities. The transportation plan shall include (i) alternative transportation options to be utilized, including rail and barge transport, if feasible, in combination with other transportation methods necessary to meet the closure timeframe established in subsection C, and (ii) plans for any transportation by truck, including the frequency of truck travel, the route of truck travel, and measures to control noise, traffic impact, safety, and fugitive dust caused by such truck travel. Once such transportation plan is completed, the owner or operator shall post it on a publicly accessible website. The owner or operator shall provide notice of the availability of the plan to the Department and the chief administrative officers of the consulting localities and shall publish such notice once in a newspaper of general circulation in such locality.

E. The owner or operator of any CCR unit subject to the provisions of subsection B shall accept and review proposals to beneficially reuse any CCR that are not subject to an existing contractual agreement to remove CCR pursuant to the provisions of subsection B every four years beginning July 1, 2022. Any entity submitting such a proposal shall provide information from which the owner or operator can determine (i) the amount of CCR that will be utilized for encapsulated beneficial use; (ii) the cost of such beneficial reuse of such CCR; and (iii) the guaranteed timeframe in which the CCR will be utilized.

F. In conducting closure activities described in subsection B, the owner or operator shall (i) identify options for utilizing local workers, (ii) consult with the Commonwealth's Chief Workforce Development Officer on opportunities to advance the Commonwealth's workforce goals, including furtherance of apprenticeship and other workforce training programs to develop the local workforce, and (iii) give priority to the hiring of local workers.

G. No later than October 1, 2022, and no less frequently than every two years thereafter until closure of all of its CCR units is complete, the owner or operator of any CCR unit subject to the provisions of subsection B shall compile the following two reports:

1. A report describing the owner's or operator's closure plan for all such CCR units; the closure progress to date, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be beneficially reused from such units, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be landfilled from such units, both per unit and in total; a detailed accounting of the utilization of transportation options and a transportation plan as required by subsection D; and a discussion of groundwater and surface water monitoring results and any measures taken to address such results as closure is being completed.

2. A report that contains the proposals and analysis for proposals required by subsection E.

The owner or operator shall post each such report on a publicly accessible website and shall submit each such report to the Governor, the Secretary of Natural *and* Historic Resources, the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources, the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources, the Chairman of the Senate Committee

on Commerce and Labor, the Chairman of the House Committee on ~~Commerce and Labor~~ *Labor and Commerce*, and the Director.

H. All costs associated with closure of a CCR unit in accordance with this section shall be recoverable through a rate adjustment clause authorized by the State Corporation Commission (the Commission) under the provisions of subdivision A 5 e of § 56-585.1, provided that (i) when determining the reasonableness of such costs the Commission shall not consider closure in place of the CCR unit as an option; (ii) the annual revenue requirement recoverable through a rate adjustment clause authorized under this section, exclusive of any other rate adjustment clauses approved by the Commission under the provisions of subdivision A 5 e of § 56-585.1, shall not exceed \$225 million on a Virginia jurisdictional basis for the Commonwealth in any 12-month period, provided that any under-recovery amount of revenue requirements incurred in excess of \$225 million in a given 12-month period, limited to the under-recovery amount and the carrying cost, shall be deferred and recovered through the rate adjustment clause over up to three succeeding 12-month periods without regard to this limitation, and with the length of the amortization period being determined by the Commission; (iii) costs may begin accruing on July 1, 2019, but no approved rate adjustment clause charges shall be included in customer bills until July 1, 2021; (iv) any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer; and (v) any such costs that are allocated to the utility's system customers outside of the Commonwealth that are not actually recovered from such customers shall be included for cost recovery from jurisdictional customers in the Commonwealth through the rate adjustment clause.

I. Any electric public utility subject to the requirements of this section may, without regard for whether it has petitioned for any rate adjustment clause pursuant to subdivision A 5 e of § 56-585.1, petition the Commission for approval of a plan for CCR unit closure at any or all of its CCR unit sites listed in subsection B. Any such plan shall take into account site-specific conditions and shall include proposals to beneficially reuse no less than 6.8 million cubic yards of CCR in aggregate from no fewer than two of the sites listed in subsection B. The Commission shall issue its final order with regard to any such petition within six months of its filing, and in doing so shall determine whether the utility's plan for CCR unit closure, and the projected costs associated therewith, are reasonable and prudent, taking into account that closure in place of any CCR unit is not to be considered as an option. The Commission shall not consider plans that do not comply with subsection B.

J. Nothing in this section shall be construed to require additional beneficial reuse of CCR at any active coal-fired electric generation facility if such additional beneficial reuse results in a net increase in truck traffic on the public roads of the locality in which the facility is located as compared to such traffic during calendar year 2018.

K. The Commonwealth shall not authorize any cost recovery by an owner or operator subject to the provisions of this section for any fines or civil penalties resulting from violations of federal and state law or regulation.

§ 10.1-1402.04. Closure of certain coal combustion residuals units; Giles and Russell Counties.

A. For the purposes of this section:

"Carrying cost" means the cost associated with financing expenditures incurred but not yet recovered from the electric utility's customers and shall be calculated by applying the electric utility's weighted average cost of debt and equity capital, as determined by the State Corporation Commission, with no additional margin or profit, to any unrecovered balances.

"CCR landfill" means an area of land or an excavation that receives CCR and is not a surface impoundment, underground injection well, salt dome formation, salt bed formation, underground or surface coal mine, or cave and that is owned or operated by an electric utility.

"CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area that (i) is designed to hold an accumulation of CCR and liquids; (ii) treats, stores, or disposes of CCR; and (iii) is owned or operated by an electric utility.

"CCR unit" means any CCR landfill, CCR surface impoundment, lateral expansion of a CCR unit, or combination of two or more such units that is owned by an electric utility. Notwithstanding the provisions of 40 C.F.R. Part 257, "CCR unit" also includes any CCR below the unit boundary of the CCR landfill or CCR surface impoundment.

"Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by an electric utility.

"Commission" means the State Corporation Commission.

"Encapsulated beneficial use" means a beneficial use of CCR that binds the CCR into a solid matrix and minimizes its mobilization into the surrounding environment.

The definitions in this subsection shall be interpreted in a manner consistent with 40 C.F.R. Part 257, except as expressly provided in this section.

B. The owner or operator of any CCR unit located in Giles County or Russell County at the Glen Lyn Plant and the Clinch River Plant shall, if all CCR units at such plant ceased receiving CCR and submitted notification of completion of a final cap to the Department prior to January 1, 2019, complete

post-closure care and any required corrective action of such unit. If all CCR units at such plant have not submitted notification of completion of a final cap to the Department prior to January 1, 2019, the owner or operator shall close all CCR units at such plant by (i) removing all of the CCR in accordance with applicable standards established by Virginia Solid Waste Management Regulations (9VAC20-81) and (ii) either (a) beneficially reusing all such CCR in a recycling process for encapsulated beneficial use or (b) disposing of the CCR in a permitted landfill on the property upon which the CCR unit is located, adjacent to the property upon which the CCR unit is located, or off of the property on which the CCR unit is located, that includes, at a minimum, a composite liner and leachate collection system that meets or exceeds the federal Criteria for Municipal Solid Waste Landfills pursuant to 40 C.F.R. Part 258. The owner or operator shall beneficially reuse CCR removed from its CCR unit if beneficial use of such removed CCR is anticipated to reduce costs incurred under this section.

C. The owner or operator shall complete the closure of any such CCR unit required by this section no later than 15 years after initiating the excavation process at that CCR unit. During the closure process, the owner or operator shall, at its expense, offer to provide a connection to a municipal water supply, or where such connection is not feasible provide water testing, for any residence within one-half mile of the CCR unit.

D. Where closure pursuant to this section requires that CCR that has been beneficially reused be removed off-site, the owner or operator shall develop a transportation plan in consultation with any county, city, or town in which the CCR units are located and any county, city, or town within two miles of the CCR units that minimizes the impact of any transport of CCR on adjacent property owners and surrounding communities. The transportation plan shall include (i) alternative transportation options to be utilized, including rail and barge transport, if feasible, in combination with other transportation methods necessary to meet the closure timeframe established in subsection C and (ii) plans for any transportation by truck, including the frequency of truck travel, the route of truck travel, and measures to control noise, traffic impact, safety, and fugitive dust caused by such truck travel. Once such transportation plan is completed, the owner or operator shall post it on a publicly accessible website. The owner or operator shall provide notice of the availability of the plan to the Department and the chief administrative officers of the consulting localities and shall publish such notice once in a newspaper of general circulation in such locality.

E. The owner or operator of any CCR unit subject to the provisions of subsection B shall accept and review proposals for the encapsulated beneficial use of CCR pursuant to the provisions of subsection B every four years beginning July 1, 2023. Any entity submitting such a proposal shall provide information from which the owner or operator can determine (i) the amount of CCR that will be utilized for encapsulated beneficial use; (ii) the cost of the proposed beneficial use of such CCR; and (iii) the guaranteed timeframe in which the CCR will be utilized.

F. In conducting closure activities described in subsection B, the owner or operator shall (i) identify options for utilizing local workers; (ii) consult with the Commonwealth's Chief Workforce Development Officer on opportunities to advance the Commonwealth's workforce goals, including furtherance of apprenticeship and other workforce training programs to develop the local workforce; and (iii) give priority to the hiring of local workers.

G. No later than October 1, 2023, and no less frequently than every two years thereafter until closure of or corrective action at all of its CCR units is complete, the owner or operator of any CCR unit subject to the provisions of subsection B shall compile the following two reports:

1. A report describing the owner's or operator's closure plan for all such CCR units; the closure progress to date, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be beneficially reused from such units, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be landfilled from such units, both per unit and in total; a detailed accounting of the utilization of transportation options and a transportation plan as required by subsection D; and a discussion of groundwater and surface water monitoring results and any corrective actions or other measures taken to address such results as closure is being completed.

2. A report that contains the proposals and analysis for proposals required by subsection E.

The owner or operator shall post each such report on a publicly accessible website and shall submit each such report to the Governor, the Secretary of Natural *and* Historic Resources, the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources, the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources, the Chairman of the Senate Committee on Commerce and Labor, the Chairman of the House Committee on Labor and Commerce, and the Director.

H. All costs associated with closure by removal of a CCR unit or encapsulated beneficial use of CCR material in accordance with subsection B shall be recoverable through a rate adjustment clause authorized by the Commission under the provisions of subdivision A 5 e of § 56-585.1, provided that (i) when determining the reasonableness of such costs the Commission shall not consider closure in place of the CCR unit as an option; (ii) the annual revenue requirement recoverable through a rate adjustment clause authorized under this section, exclusive of any other rate adjustment clauses approved by the

Commission under the provisions of subdivision A 5 e of § 56-585.1, shall not exceed \$40 million on a Virginia jurisdictional basis for the Commonwealth in any 12-month period, provided that any under-recovery amount of revenue requirements incurred in excess of \$40 million in a given 12-month period, limited to the under-recovery amount and the carrying cost, shall be deferred and recovered through the rate adjustment clause over up to three succeeding 12-month periods without regard to this limitation, and with the length of the amortization period being determined by the Commission; (iii) costs may begin accruing on July 1, 2020, but no approved rate adjustment clause charges shall be included in customer bills until July 1, 2022; (iv) any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer; and (v) any such costs that are allocated to the utility's system customers outside of the Commonwealth that are not actually recovered from such customers shall be included for cost recovery from jurisdictional customers in the Commonwealth through the rate adjustment clause.

I. Any electric public utility subject to the requirements of this section may, without regard for whether it has petitioned for any rate adjustment clause pursuant to subdivision A 5 e of § 56-585.1, petition the Commission for approval of a plan for CCR unit closure at any or all of its CCR unit sites listed in subsection B. Any such plan shall take into account site-specific conditions and shall include proposals to beneficially reuse CCR from the sites if beneficial use is anticipated to reduce the costs allocated to customers. The Commission shall issue its final order with regard to any such petition within six months of its filing, and in doing so shall determine whether the utility's plan for CCR unit closure, and the projected costs associated therewith, are reasonable and prudent, taking into account that closure in place of any CCR unit is not to be considered as an option. The Commission shall not consider plans that do not comply with subsection B.

J. Nothing in this section shall be construed to require additional beneficial reuse of CCR at any active coal-fired electric generation facility if such additional beneficial reuse results in a net increase in truck traffic on the public roads of the locality in which the facility is located as compared with such traffic during calendar year 2019.

K. The Commonwealth shall not authorize any cost recovery by an owner or operator subject to the provisions of this section for any fines or civil penalties resulting from violations of federal and state law or regulation.

§ 10.1-1405. Powers and duties of Director.

A. The Director, under the direction and control of the Secretary of Natural *and* Historic Resources, shall exercise such powers and perform such duties as are conferred or imposed upon him by law and shall perform any other duties required of him by the Governor or the Board.

B. In addition to the other responsibilities set forth herein, the Director shall carry out management and supervisory responsibilities in accordance with the regulations and policies of the Board. In no event shall the Director have the authority to promulgate any final regulation.

The Director shall be vested with all the authority of the Board when it is not in session, subject to such regulations as may be prescribed by the Board.

C. The Director shall serve as the liaison with the United States Department of Energy on matters concerning the siting of high-level radioactive waste repositories, pursuant to the terms of the Nuclear Waste Policy Act of 1982.

D. The Director shall obtain a criminal records check pursuant to § 19.2-389 of key personnel listed in the disclosure statement when the Director determines, in his sole discretion, that such a records check will serve the purposes of this chapter.

§ 10.1-2129. Agency coordination; conditions of grants.

A. If, in any fiscal year beginning on or after July 1, 2005, there are appropriations to the Fund in addition to those made pursuant to subsection A of § 10.1-2128, the Secretary of Natural *and* Historic Resources shall distribute those moneys in the Fund provided from the 10 percent of the annual general fund revenue collections that are in excess of the official estimates in the general appropriation act, and the 10 percent of any unrestricted and uncommitted general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act, as follows:

1. Seventy percent of the moneys shall be distributed to the Department of Conservation and Recreation and shall be administered by it for the sole purpose of implementing projects or best management practices that reduce nitrogen and phosphorus nonpoint source pollution, with a priority given to agricultural best management practices. In no single year shall more than 60 percent of the moneys be used for projects or practices exclusively within the Chesapeake Bay watershed; and

2. Thirty percent of the moneys shall be distributed to the Department of Environmental Quality, which shall use such moneys for making grants for the sole purpose of designing and installing nutrient removal technologies for publicly owned treatment works designated as significant dischargers or eligible nonsignificant dischargers. The moneys shall also be available for grants when the design and installation of nutrient removal technology utilizes the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.).

3. Except as otherwise provided in the Appropriation Act, in any fiscal year when moneys are not appropriated to the Fund in addition to those specified in subsection A of § 10.1-2128, or when moneys

appropriated to the Fund in addition to those specified in subsection A of § 10.1-2128 are less than 40 percent of those specified in subsection A of § 10.1-2128, the Secretary of Natural *and Historic* Resources, in consultation with the Secretary of Agriculture and Forestry, the State Forester, the Commissioner of Agriculture and Consumer Services, and the Directors of the Departments of Environmental Quality and Conservation and Recreation, and with the advice and guidance of the Board of Conservation and Recreation, the Virginia Soil and Water Conservation Board, and the State Water Control Board, and following a public comment period of at least 30 days and a public hearing, shall allocate those moneys deposited in the Fund, but excluding any moneys deposited into the Virginia Natural Resources Commitment Fund established pursuant to § 10.1-2128.1, between point and nonpoint sources, both of which shall receive moneys in each such year.

B. 1. Except as may otherwise be specified in the general appropriation act, the Secretary of Natural *and Historic* Resources, in consultation with the Secretary of Agriculture and Forestry, the State Forester, the Commissioner of Agriculture and Consumer Services, the State Health Commissioner, and the Directors of the Departments of Environmental Quality and Conservation and Recreation, and with the advice and guidance of the Board of Conservation and Recreation, the Virginia Soil and Water Conservation Board, and the State Water Control Board, shall develop written guidelines that (i) specify eligibility requirements; (ii) govern the application for and the distribution and conditions of Water Quality Improvement Grants; (iii) list criteria for prioritizing funding requests; and (iv) define criteria and financial incentives for water reuse.

2. In developing the guidelines, the Secretary shall evaluate and consider, in addition to such other factors as may be appropriate to most effectively restore, protect and improve the quality of state waters: (i) specific practices and programs proposed in the Chesapeake Bay TMDL Watershed Implementation Plan, and the associated effectiveness and cost per pound of nutrients removed; (ii) water quality impairment or degradation caused by different types of nutrients released in different locations from different sources; and (iii) environmental benchmarks and indicators for achieving improved water quality. The process for development of guidelines pursuant to this subsection shall, at a minimum, include (a) use of an advisory committee composed of interested parties; (b) a 60-day public comment period on draft guidelines; (c) written responses to all comments received; and (d) notice of the availability of draft guidelines and final guidelines to all who request such notice.

3. In addition to those the Secretary deems advisable to most effectively restore, protect and improve the quality of state waters, the criteria for prioritizing funding requests shall include: (i) the pounds of total nitrogen and the pounds of total phosphorus reduced by the project; (ii) whether the location of the water quality restoration, protection or improvement project or program is within a watershed or subwatershed with documented water nutrient loading problems or adopted nutrient reduction goals; (iii) documented water quality impairment; and (iv) the availability of other funding mechanisms. Notwithstanding the provisions of subsection E of § 10.1-2131, the Director of the Department of Environmental Quality may approve a local government point source grant application request for any single project that exceeds the authorized grant amount outlined in subsection E of § 10.1-2131. Whenever a local government applies for a grant that exceeds the authorized grant amount outlined in this chapter or when there is no stated limitation on the amount of the grant for which an application is made, the Directors and the Secretary shall consider the comparative revenue capacity, revenue efforts and fiscal stress as reported by the Commission on Local Government. The development or implementation of cooperative programs developed pursuant to subsection B of § 10.1-2127 shall be given a high priority in the distribution of Virginia Water Quality Improvement Grants from the moneys allocated to nonpoint source pollution.

§ 10.1-2202.3. Stewardship of state-owned historic properties.

A. In order to consider the broad public interest and protect the financial investment in state-owned historic assets, the Department shall develop, on a biennial basis, a report on the stewardship of state-owned properties. The report shall include, but not be limited to, a priority list of the Commonwealth's most significant state-owned properties that are eligible for but not designated on the Virginia Landmarks Register pursuant to § 10.1-2206.1. The report shall also provide a priority list of significant state-owned properties, designated on or eligible for the Virginia Landmarks Register, which are threatened with the loss of historic integrity or functionality. In developing the report, the Department shall, in addition to significance and threat, take into account other public interest considerations associated with landmark designation and the provision of proper care and maintenance of property. These considerations shall include: (i) potential financial consequences to the Commonwealth associated with failure to care for and maintain property, (ii) significant public educational potential, (iii) significant tourism opportunities, and (iv) community values and comments. The report shall be forwarded to all affected state agencies, including institutions of higher education, the Governor, the Secretary of Administration, the Secretary of Natural *and Historic* Resources, the Secretary of Finance, and the General Assembly. All agencies of the Commonwealth shall assist and support the development of the report by providing information and access to property as may be requested.

B. Each agency that owns property included in the report required by subsection A shall initiate consultation with the Department within 60 days of receipt of the report and make a good faith effort to

reach a consensus decision on designation of an unlisted property and on the feasibility, advisability, and general manner of addressing property needs in the case of a threatened historic property.

C. The Department shall prepare a biennial status report summarizing actions, decisions taken, and the condition of properties previously identified as priorities. The status report, which may be combined with the report required pursuant to subsection A, shall be forwarded to all affected state agencies, including institutions of higher education, as well as to the Governor, the Secretary of Administration, the Secretary of Natural *and Historic* Resources, the Secretary of Finance, and the General Assembly.

D. The reports required in subsections A and C shall be completed and distributed as required no later than May 1 of each odd-numbered year, so that information contained therein is available to the agencies, the Secretary of Finance, the Secretary of Administration, and the Governor, as well as the General Assembly, during budget preparation.

§ 15.2-2295.1. Regulation of mountain ridge construction.

A. As used in this section, unless the context requires a different meaning:

"Construction" means the building, alteration, repair, or improvement of any building or structure.

"Crest" means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

"Protected mountain ridge" means a ridge with (i) an elevation of 2,000 feet or more and (ii) an elevation of 500 feet or more above the elevation of an adjacent valley floor.

"Ridge" means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

"Tall buildings or structures" means any building, structure or unit within a multi-unit building with a vertical height of more than 40 feet, as determined by ordinance, measured from the top of the natural finished grade of the crest or the natural finished grade of the high side of the slope of a ridge to the uppermost point of the building, structure or unit. "Tall buildings or structures" does not include (i) water, radio, telecommunications or television towers or any equipment for the transmission of electricity, telephone or cable television; (ii) structures of a relatively slender nature and minor vertical projections of a parent building, including, but not limited to, chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills; or (iii) any building or structure designated as a historic landmark, building or structure by the United States or by the Board of Historic Resources.

B. Determinations by the governing body of heights and elevations under this section shall be conclusive.

C. Any locality in which a protected mountain ridge is located may, by ordinance, provide for the regulation of the height and location of tall buildings or structures on protected mountain ridges. The ordinance may be designed and adopted by the locality as an overlay zone superimposed on any preexisting base zone.

D. An ordinance adopted under this section may include criteria for the granting or denial of permits for the construction of tall buildings or structures on protected mountain ridges. Any such ordinance shall provide that permit applications shall be denied if a permit application fails to provide for (i) adequate sewerage, water, and drainage facilities, including, but not limited to, facilities for drinking water and the adequate supply of water for fire protection and (ii) compliance with the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.).

E. Any locality that adopts an ordinance providing for the regulation of the height and location of tall buildings or structures on protected mountain ridges shall send a copy of the ordinance to the Secretary of Natural *and Historic* Resources.

F. Nothing in this section shall be construed to affect or impair a governing body's authority under this chapter to define and regulate uses in any existing zoning district or to adopt overlay districts regulating uses on mountainous areas as defined by the governing body.

§ 28.2-207. Tournament Advisory Committee continued.

A. The Virginia Saltwater Sport Fishing Tournament Advisory Committee is continued and shall hereinafter be known as the Committee. The Committee shall assist the Director of the Virginia Saltwater Sport Fishing Tournament, hereinafter referred to as the Director, with the development and operation of tournament programs.

B. The Committee shall consist of ~~twelve~~ 12 members appointed by the Commissioner with the approval of the Secretary of Natural *and Historic* Resources. Committee members shall be selected from a list of nominees supplied by the Director.

C. The term of office of each member shall be for four years. Initially, four members shall be appointed for two years, four members appointed for three years, and four members appointed for four years. Appointments to fill vacancies shall be made to fill the unexpired term.

D. Members shall receive no compensation for their services but shall receive reimbursement for actual expenses. The Committee shall meet at the call of the Director.

§ 29.1-102. Board of Wildlife Resources; how constituted; meetings.

A. The Commission of Game and Inland Fisheries is continued and shall hereafter be known as the Board of Wildlife Resources (the Board).

B. The Board shall consist of 11 members. Each member of the Board shall be appointed by the Governor, subject to confirmation by the General Assembly. The members appointed shall be citizens of the Commonwealth and shall be knowledgeable about wildlife conservation, hunting, fishing, boating, agriculture, forestry, or habitat. Each Department region, as constituted on July 1, 2014, shall be represented by two members, and three members shall be members-at-large, each representing a different Department region. Members shall be appointed for terms of one to four years; however, appointments shall be made in a manner whereby no more than three members shall have terms which expire in the same year. An appointment to fill a vacancy shall be made in the same manner, but only for the unexpired term. No person shall be eligible to serve more than two consecutive four-year terms. Members may be removed from office during their respective terms by the Governor.

C. The Board shall adopt rules and procedures for the conduct of its business that shall be set forth in a Governance Manual. The Board may establish committees to assist it with its duties and responsibilities. All decisions by a committee shall be reviewed by the Board, and shall only take effect if approved by the Board.

D. The Board shall elect one of its members as its chairman whose duties shall be limited to (i) presiding at all regular and called meetings of the Board; (ii) serving as the Board liaison to the Director, other Board members, and the Secretary of Natural *and Historic* Resources; and (iii) the other duties set forth in the Governance Manual as approved by a majority of the Board. The Board shall also elect a vice-chairman to preside in the absence of the chairman. Any additional duties of the vice-chairman shall be set forth in the Governance Manual. The Board shall annually elect one of its members as chairman and one of its members as vice-chairman. At such annual election, the chairman and vice-chairman shall not be eligible to be re-elected to their respective positions and no person shall serve more than one year as chairman and one year as vice-chairman during a four-year term.

E. The Board shall meet at least once every quarter of the calendar year for the transaction of business, and other meetings may be called if necessary by the chairman or at the request of any three members. The majority of the members shall constitute a quorum. Meetings shall be held in Richmond or at such other places within the Commonwealth as may be necessary.

§ 29.1-573. Department; powers.

A. The Department may conduct operations and measures to suppress, control, eradicate, prevent, or retard the spread of any nonindigenous aquatic nuisance species. The maximum effort shall be made to utilize the best available scientific technology that is specific to the targeted nonindigenous aquatic nuisance species, environmentally sound, practical, and cost effective.

B. Such operations and measures shall be conducted subject to the appropriation of general funds authorized for the purpose of suppressing, controlling, eradicating, preventing, or retarding the spread of any nonindigenous aquatic nuisance species, or the receipt of funds designated for this purpose from private entities, local governments, political subdivisions, or federal grants. If such funds are not available to carry out the purposes of this chapter, then the Secretary of Natural *and Historic* Resources shall seek and accept all possible funds from other sources, including federal, state, local, and private grants, loans, and donations.

C. In carrying out its powers, the Department may cooperate with any federal agencies, any agency of an adjacent state, any other state agencies, local governments, political subdivisions, and authorities within the Commonwealth. Other state agencies shall cooperate and provide assistance as requested by the Director in carrying out the purposes of this article.

§ 29.1-579. Wildlife Corridor Action Plan; adoption.

A. The Department, in collaboration with the Department of Transportation and the Department of Conservation and Recreation, shall create a Wildlife Corridor Action Plan.

B. The Plan shall:

1. Identify wildlife corridors, existing or planned barriers to movement along such corridors, and areas with a high risk of wildlife-vehicle collisions. The Plan shall list habitat that is identified as of high quality for priority species and ecosystem health; migration routes of native, game, and migratory species using the best available science and Department surveys, including landscape-scale data from the ConserveVirginia database or a similar land conservation strategy database maintained by the Department of Conservation and Recreation; lands containing a high prevalence of existing human barriers, including roads, dams, power lines, and pipelines; areas identified as of high risk of wildlife-vehicle collisions; habitat identified by the Department as being occupied by rare or at-risk species; and habitat identified as Critical Habitat under the federal Endangered Species Act of 1973, P.L. 93-205, as amended.

2. Prioritize and recommend wildlife crossing projects intended to promote driver safety and wildlife connectivity. The Plan shall describe each such project and include descriptions of wildlife crossing infrastructure or other mitigation techniques recommended to meet Plan goals.

3. Contain maps utilizing the ConserveVirginia public portal, or a similar land conservation strategy public portal maintained by the Department of Conservation and Recreation, and other relevant state databases that detail high-priority areas for wildlife corridor infrastructure and any other information necessary to meet the goals of the Plan.

C. The Secretary of Natural *and* Historic Resources and the Secretary of Transportation shall jointly submit the Plan to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources no later than September 1, 2022, and shall jointly submit an updated version of the Plan every four years thereafter.

§ 30-377. (Expires July 1, 2025) Membership; terms; vacancies; chairman and vice-chairman.

A. The Commission shall consist of 23 members that include eight legislative members, five nonlegislative citizen members, and 10 ex officio members. Members shall be appointed as follows: five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members, at least one of whom shall have a background in community competence building and one of whom shall have a significant background in health and wellness within the private sector equivalent to that of ex officio members of the Commission, to be appointed by the Speaker of the House of Delegates; two nonlegislative citizen members, one of whom shall have a background in community competence building and one of whom shall have a significant background in health and wellness within the private sector equivalent to that of ex officio members of the Commission, to be appointed by the Senate Committee on Rules; and the Secretaries of Health and Human Resources, Commerce and Trade, Agriculture and Forestry, Education, Public Safety and Homeland Security, Natural *and* Historic Resources, and Transportation, the Chief Workforce Development Advisor to the Governor, the Commissioner of Health, and the Executive Director of the Virginia Foundation for Healthy Youth, or their designees, to serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the Commission and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings.

B. Legislative members and ex officio members of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative members and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

§ 56-596.2. Energy efficiency programs; financial assistance for low-income customers.

A. Notwithstanding subsection G of § 56-580, or any other provision of law, each incumbent investor-owned electric utility shall develop proposed energy efficiency programs. Any program shall provide for the submission of a petition or petitions for approval to design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1. At least 15 percent of such proposed costs of energy efficiency programs shall be allocated to programs designed to benefit low-income, elderly, or disabled individuals or veterans.

B. Notwithstanding any other provision of law, each investor-owned incumbent electric utility shall implement energy efficiency programs and measures to achieve the following total annual energy savings:

1. For Phase I electric utilities:
 - a. In calendar year 2022, at least 0.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
 - b. In calendar year 2023, at least 1.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
 - c. In calendar year 2024, at least 1.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and
 - d. In calendar year 2025, at least 2.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
2. For Phase II electric utilities:
 - a. In calendar year 2022, at least 1.25 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
 - b. In calendar year 2023, at least 2.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
 - c. In calendar year 2024, at least 3.75 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and
 - d. In calendar year 2025, at least 5.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and
3. For the time period 2026 through 2028, and for every successive three-year period thereafter, the Commission shall establish new energy efficiency savings targets. In advance of the effective date of

such targets, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such targets. As part of such proceeding, the Commission shall consider the feasibility of achieving energy efficiency goals and future energy efficiency savings through cost-effective programs and measures. The Commission shall annually review the feasibility of the energy efficiency program savings in this section and report to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor and the Secretary of Natural *and Historic* Resources and the Secretary of Commerce and Trade on such feasibility by October 1, 2022, and each year thereafter.

C. The projected costs for the utility to design, implement, and operate such energy efficiency programs and portfolios of programs shall be no less than an aggregate amount of \$140 million for a Phase I Utility and \$870 million for a Phase II Utility for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. In developing such portfolio of energy efficiency programs and portfolios of programs, each utility shall utilize a stakeholder process, to be facilitated by an independent monitor compensated under the funding provided pursuant to subsection E of § 56-592.1, to provide input and feedback on (i) the development of such energy efficiency programs and portfolios of programs; (ii) compliance with the total annual energy savings set forth in this subsection and how such savings affect utility integrated resource plans; (iii) recommended policy reforms by which the General Assembly or the Commission can ensure maximum and cost-effective deployment of energy efficiency technology across the Commonwealth; and (iv) best practices for evaluation, measurement, and verification for the purposes of assessing compliance with the total annual energy savings set forth in subsection B. Utilities shall utilize the services of a third party to perform evaluation, measurement, and verification services to determine a utility's total annual savings as required by this subsection, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs and portfolios produce; and utility spending on each program, including any associated administrative costs. The third-party evaluator shall include and review each utility's avoided costs and cost-benefit analyses. The findings and reports of such third parties shall be concurrently provided to both the Commission and the utility, and the Commission shall make each such final annual report easily and publicly accessible online. Such stakeholder process shall include the participation of representatives from each utility, relevant directors, deputy directors, and staff members of the Commission who participate in approval and oversight of utility energy efficiency savings programs, the office of Consumer Counsel of the Attorney General, the Department of Mines, Minerals and Energy, energy efficiency program implementers, energy efficiency providers, residential and small business customers, and any other interested stakeholder whom the independent monitor deems appropriate for inclusion in such process. The independent monitor shall convene meetings of the participants in the stakeholder process not less frequently than twice in each calendar year during the period beginning July 1, 2019, and ending July 1, 2028. The independent monitor shall report on the status of the energy efficiency stakeholder process, including (a) the objectives established by the stakeholder group during this process related to programs to be proposed, (b) recommendations related to programs to be proposed that result from the stakeholder process, and (c) the status of those recommendations, in addition to the petitions filed and the determination thereon, to the Governor, the Commission, and the Chairmen of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor on July 1, 2019, and annually thereafter through July 1, 2028.

D. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

§ 58.1-344.3. Voluntary contributions of refunds requirements.

A. 1. For taxable years beginning on and after January 1, 2005, all entities entitled to voluntary contributions of tax refunds listed in subsections B and C must have received at least \$10,000 in contributions in each of the three previous taxable years for which there is complete data and in which such entity was listed on the individual income tax return.

2. In the event that an entity listed in subsections B and C does not satisfy the requirement in subdivision 1, such entity shall no longer be listed on the individual income tax return.

3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B and C added subsequent to the 2004 Session of the General Assembly shall not appear on the individual income tax return until their addition to the individual income tax return results in a maximum of 25 contributions listed on the return. Such contributions shall be added in the order that they are listed in subsections B and C.

b. Each entity added to the income tax return shall appear on the return for at least three consecutive taxable years before the requirement in subdivision 1 is applied to such entity.

4. The Department of Taxation shall report annually by the first day of each General Assembly Regular Session to the Chairmen of the House and Senate Committees on Finance the amounts collected for each entity listed under subsections B and C for the three most recent taxable years for which there is complete data. Such report shall also identify the entities, if any, that will be removed from the individual income tax return because they have failed the requirements in subdivision 1, the entities that will remain on the individual income tax return, and the entities, if any, that will be added to the

individual income tax return.

B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions of not less than \$1:

1. Nongame wildlife voluntary contribution.

a. All moneys contributed shall be used for the conservation and management of endangered species and other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened wildlife, aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks, crustaceans, and other invertebrates under the jurisdiction of the Board of Wildlife Resources.

b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which shall be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All moneys so deposited in the Nongame Cash Fund shall be used by the Board of Wildlife Resources for the purposes set forth herein.

2. Open space recreation and conservation voluntary contribution.

a. All moneys contributed shall be used by the Department of Conservation and Recreation to acquire land for recreational purposes and preserve natural areas; to develop, maintain, and improve state park sites and facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

b. All moneys shall be deposited into a special fund known as the Open Space Recreation and Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of Conservation and Recreation for the purposes stated in subdivision 2 a and one-half to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

3. Voluntary contribution to political party.

All moneys contributed shall be paid to the State Central Committee of any party that meets the definition of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum contribution allowable under this subdivision shall be \$25. In the case of a joint return of married individuals, each spouse may designate that the maximum contribution allowable be paid.

4. United States Olympic Committee voluntary contribution.

All moneys contributed shall be paid to the United States Olympic Committee.

5. Housing program voluntary contribution.

a. All moneys contributed shall be used by the Department of Housing and Community Development to provide assistance for emergency, transitional, and permanent housing for the homeless; and to provide assistance to housing for the low-income elderly for the physically or mentally disabled.

b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for Housing Fund. All moneys deposited in the fund shall be used by the Department of Housing and Community Development for the purposes set forth in this subdivision. Funds made available to the Virginia Tax Check-off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing Development Authority.

6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this subdivision annually to the Secretary of Health and Human Resources.

7. Voluntary contribution to the Community Policing Fund.

a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the purchase of equipment or the support of services, as approved by the Criminal Justice Services Board, relating to community policing.

b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All moneys deposited in such fund shall be used by the Department of Criminal Justice Services for the purposes set forth herein.

8. Voluntary contribution to promote the arts.

All moneys contributed shall be used by the Virginia Arts Foundation to assist the Virginia Commission for the Arts in its statutory responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special fund known as the Virginia Arts Foundation Fund.

9. Voluntary contribution to the Historic Resources Fund.

All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to § 10.1-2202.1.

10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.

All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public

Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.

11. Voluntary contribution to the Center for Governmental Studies.

All moneys contributed shall be paid to the Center for Governmental Studies, a public service and research center of the University of Virginia. All moneys shall be deposited into a special fund known as the Governmental Studies Fund.

12. Voluntary contribution to the Law and Economics Center.

All moneys contributed shall be paid to the Law and Economics Center, a public service and research center of George Mason University. All moneys shall be deposited into a special fund known as the Law and Economics Fund.

13. Voluntary contribution to Children of America Finding Hope.

All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs which are designed to reach children with emotional and physical needs.

14. Voluntary contribution to 4-H Educational Centers.

All moneys contributed shall be used by the 4-H Educational Centers throughout the Commonwealth for their (i) educational, leadership, and camping programs and (ii) operational and capital costs. The State Treasurer shall pay the moneys to the Virginia 4-H Foundation in Blacksburg, Virginia.

15. Voluntary contribution to promote organ and tissue donation.

a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory responsibility of promoting and coordinating educational and informational activities as related to the organ, tissue, and eye donation process and transplantation in the Commonwealth of Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Donor Registry and Public Awareness Fund. All moneys deposited in such fund shall be used by the Virginia Transplant Council for the purposes set forth herein.

16. Voluntary contributions to the Virginia War Memorial division of the Department of Veterans Services and the National D-Day Memorial Foundation.

All moneys contributed shall be used by the Virginia War Memorial division of the Department of Veterans Services and the National D-Day Memorial Foundation in their work through each of their respective memorials. The State Treasurer shall divide the moneys into two equal portions and pay one portion to the Virginia War Memorial division of the Department of Veterans Services and the other portion to the National D-Day Memorial Foundation.

17. Voluntary contribution to the Virginia Federation of Humane Societies.

All moneys contributed shall be paid to the Virginia Federation of Humane Societies to assist in its mission of saving, caring for, and finding homes for homeless animals.

18. Voluntary contribution to the Tuition Assistance Grant Fund.

a. All moneys contributed shall be paid to the Tuition Assistance Grant Fund for use in providing monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate programs in private Virginia colleges.

b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act (§ 23.1-628 et seq.).

19. Voluntary contribution to the Spay and Neuter Fund.

All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or each locality may make the funds available to any private, nonprofit sterilization program for dogs and cats in such locality. The Tax Commissioner shall determine annually the total amounts designated on all returns from each locality in the Commonwealth, based upon the locality that each filer who makes a voluntary contribution to the Fund lists as his permanent address. The State Treasurer shall pay the appropriate amount to each respective locality.

20. Voluntary contribution to the Virginia Commission for the Arts.

All moneys contributed shall be paid to the Virginia Commission for the Arts.

21. Voluntary contribution for the Department of Emergency Management.

All moneys contributed shall be paid to the Department of Emergency Management.

22. Voluntary contribution for the cancer centers in the Commonwealth.

All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have been designated as cancer centers by the National Cancer Institute.

23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program Fund to support the work of and generate nonstate funds to maintain the Brown v. Board of Education Scholarship Program.

b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as established in § 30-231.4.

c. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of

Title 30.

24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living History and Public Policy Center.

25. Voluntary contribution to the Virginia Caregivers Grant Fund.

All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to § 63.2-2202.

26. Voluntary contribution to public library foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public library foundation.

27. Voluntary contribution to Celebrating Special Children, Inc.

All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a special fund known as the Celebrating Special Children, Inc. Fund.

28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for providing Medicare Part D counseling to the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to provide counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and Human Resources.

29. Voluntary contribution to community foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective community foundation. A "community foundation" shall be defined as any institution that meets the membership requirements for a community foundation established by the Council on Foundations.

30. Voluntary contribution to the Virginia Foundation for Community College Education.

a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community colleges in Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia Foundation for Community College Education in accordance with and for the purposes provided under the Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to be used for the purposes described in § 15.2-6601.

32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.

All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund established pursuant to § 32.1-368.

33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.

All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in its mission to increase the public's knowledge and appreciation of Virginia's marine environment and inspire commitment to preserve its existence.

34. Voluntary contribution to the Virginia Capitol Preservation Foundation.

All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol and Capitol Square.

35. Voluntary contribution for the Secretary of Veterans and Defense Affairs.

All moneys contributed shall be paid to the Office of the Secretary of Veterans and Defense Affairs for related programs and services.

C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions or by making payment to the Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of such tax refund is less than the amount of the voluntary contribution:

1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.

All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.

2. Voluntary Chesapeake Bay restoration contribution.

a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration

activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions thereof.

b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund to be administered by the Office of the Secretary of Natural *and Historic* Resources. All moneys so deposited shall be used for the purposes of providing grants for the implementation of tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions thereof.

c. No later than November 1 of each year, the Secretary of Natural *and Historic* Resources shall submit a report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate Committee on Finance *and Appropriations*; and the Virginia delegation to the Chesapeake Bay Commission, describing the grants awarded from moneys deposited in the fund. The report shall include a list of grant recipients, a description of the purpose of each grant, the amount received by each grant recipient, and an assessment of activities or initiatives supported by each grant. The report shall be posted on a website maintained by the Secretary of Natural *and Historic* Resources, along with a cumulative listing of previous grant awards beginning with awards granted on or after July 1, 2014.

3. Voluntary Jamestown-Yorktown Foundation Contribution.

All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before January 1, 2008.

4. State forests voluntary contribution.

a. All moneys contributed shall be used for the development and implementation of conservation and education initiatives in the state forests system.

b. All moneys shall be deposited into a special fund known as the State Forests System Fund, established pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State Forester for the purposes set forth herein.

5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established pursuant to § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured medical catastrophes.

6. Voluntary contribution to local school divisions.

a. All moneys contributed shall be used by a specified local public school foundation as created by and for the purposes stated in § 22.1-212.2:2.

b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers designated for a local public school foundation over refundable amounts shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public school foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public school foundation.

c. In order for a public school foundation to be eligible to receive contributions under this section, school boards must notify the Department during the taxable year in which they want to participate prior to the deadlines and according to procedures established by the Tax Commissioner.

7. Voluntary contribution to Home Energy Assistance Fund.

All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy needs.

8. Voluntary contribution to the Virginia Military Family Relief Fund.

a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in providing assistance to military service personnel on active duty and their families for living expenses including, but not limited to, food, housing, utilities, and medical services.

b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief Fund, established and administered pursuant to § 44-102.2.

9. Voluntary contribution to the Federation of Virginia Food Banks.

All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable make an equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area Food Bank, Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia and the Eastern Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

The Secretary of Finance may request records or receipts of all distributions by the Federation of

Virginia Food Banks of such moneys contributed for purposes of ensuring compliance with the requirements of this subdivision.

D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected for each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amount designated for each entity in subsections B and C on all individual income tax returns and shall report the same to the State Treasurer, who shall credit that amount to each entity's respective special fund.

§ 62.1-44.15:68. Definitions.

For the purposes of this article, the following words shall have the meanings respectively ascribed to them:

"Chesapeake Bay Preservation Area" means an area delineated by a local government in accordance with criteria established pursuant to § 62.1-44.15:72.

"Criteria" means criteria developed by the Board pursuant to § 62.1-44.15:72 for the purpose of determining the ecological and geographic extent of Chesapeake Bay Preservation Areas and for use by local governments in permitting, denying, or modifying requests to rezone, subdivide, or use and develop land in Chesapeake Bay Preservation Areas.

"Daylighted stream" means a stream that had been previously diverted into an underground drainage system, has been redirected into an aboveground channel using natural channel design concepts as defined in § 62.1-44.15:51, and would meet the criteria for being designated as a Resource Protection Area (RPA) as defined by the Board under this article.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Secretary" means the Secretary of Natural *and* Historic Resources.

"Tidewater Virginia" means the following jurisdictions:

The Counties of Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York, and the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and Williamsburg.

§ 62.1-44.34:25. Virginia Spill Response Council created; purpose; membership.

A. There is hereby created the Virginia Spill Response Council. The purpose of the Council is to (i) improve the Commonwealth's capability to respond in a timely and coordinated fashion to incidents involving the discharge of oil or hazardous materials which pose a threat to the environment, its living resources, and the health, safety, and welfare of the people of the Commonwealth and (ii) provide an ongoing forum for discussions between agencies which are charged with the prevention of, and response to, oil spills and hazardous materials incidents, and those agencies responsible for the remediation of such incidents.

B. The Secretary of Natural *and* Historic Resources and the Secretary of Public Safety and Homeland Security, upon the advice of the director of the agency, shall select one representative from each of the following agencies to serve as a member of the Council: Department of Emergency Management, State Water Control Board, Department of Environmental Quality, Virginia Marine Resources Commission, Department of Wildlife Resources, Department of Health, Department of Fire Programs, and the Council on the Environment.

C. The Secretary of Natural *and* Historic Resources or his designee shall serve as chairman of the Council.

§ 62.1-44.34:28. Council to submit annual report.

The Council shall submit a report annually to the Secretaries of Natural *and* Historic Resources and Transportation and Public Safety, which includes (i) an evaluation of the emergency response preparedness activities undertaken and the emergency response activities conducted during the year and (ii) a description of the activities of the Council during the year.

§ 62.1-44.117. Development of an impaired waters clean-up plan; strategies; objectives.

A. The Secretary of Natural *and* Historic Resources shall develop a plan for the cleanup of the Chesapeake Bay and Virginia's waters designated as impaired by the U.S. Environmental Protection Agency. The plan shall be revised and amended as needed to reflect changes in strategies, timetables, and milestones. Upon the request of the Secretary of Natural *and* Historic Resources, state agencies shall participate in the development of the plan.

B. The plan shall address both point and nonpoint sources of pollution and shall include, but not be limited to the following:

1. Measurable and attainable objectives for cleaning up the Chesapeake Bay and other impaired Virginia waters;

2. A description of the strategies to be implemented to meet specific and attainable objectives outlined in the plan;

3. Time frames or phasing to accomplish plan objectives and the expected dates of completion;
4. A clearly defined, prioritized, and sufficiently funded program of work within the plan both for point and nonpoint source clean-up projects;
5. A disbursement projection plan detailing the expenditures for point and nonpoint projects and whenever possible, a listing of the specific projects to which the funds are to be allocated;
6. Potential problem areas where delays in the implementation of the plan may occur;
7. A risk mitigation strategy designed to reduce the potential problems that might delay plan implementation;
8. A description of the extent of coordination between state and local governments in developing and achieving the plan's objectives;
9. Assessments of alternative funding mechanisms, that shall include but not be limited to the feasibility of utilizing the Virginia Resources Authority, that would address the needs of the Commonwealth to handle and appropriate state funds prudently and efficiently and address the needs of localities to achieve their goals in a timely and affordable manner; and
10. Recommendations to the oversight committees, as defined in § 62.1-44.118, for legislative action.

C. In reporting and documenting progress being made in clean-up efforts to the oversight committees, the plan shall include measures to assess the progress in accomplishing the program of work outlined in the plan. Special emphasis shall be given to the identification of trends that are either positively or negatively impacting plan accomplishment. These shall include, but are not limited to:

1. Stream miles added and removed from the 303(d) list under the federal Clean Water Act; waters meeting water quality standards; and total reductions of nitrogen, phosphorus, and sediment by tributary basin from point and nonpoint sources of pollution;
2. Scope of water quality monitoring of rivers, streams, estuaries, and lakes and the cumulative number of miles or acres assessed to evaluate the effectiveness of the efforts to restore impaired waters;
3. Number of best management practices (BMP) implemented; participation level in BMP cost-share programs; number of Total Maximum Daily Loads developed and implemented; local compliance levels with nonpoint programs, such as erosion and sediment control, stormwater management, and the Chesapeake Bay Preservation Act; number of wastewater treatment upgrades underway and number completed; and levels of compliance with nutrient-based permit limits; and
4. Updated or new strategies that would permit the optimal use of resources to meet plan objectives as the plan is revised over time.

For the purposes of this chapter "impaired waters" means those waters as defined in § 62.1-44.19:4.

§ 62.1-44.118. Status reports on progress; legislative oversight.

The Secretary of Natural *and* Historic Resources shall submit the impaired waters clean-up plan as described in § 62.1-44.117 no later than January 1, 2007, to the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance *and* Appropriations. Thereafter, a progress report on the implementation of the plan shall be submitted annually to these committees of oversight. The report shall be due on November 1 of each year. Water quality reporting requirements in subsection D of § 10.1-2127, subsection C of § 10.1-2128.1, and § 10.1-2134 shall be annually consolidated in the November 1 report. If there are questions as to the status of the clean-up effort, the chairman of any of these committees may convene his committee for the purpose of receiving testimony. The executive branch departments and the Secretary of Natural *and* Historic Resources may request a meeting of any of the committees to inform them as to the progress of the clean-up or to propose specific initiatives that may require legislative action.

§ 62.1-44.119:1. Effective date.

The provisions of this chapter shall not become effective unless, on or after July 1, 2026, the Secretary of Agriculture and Forestry and the Secretary of Natural *and* Historic Resources jointly determine that the Commonwealth's commitments in the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan have not been satisfied by a combination of agricultural best management conservation practices, including the coverage of a sufficient portion of Chesapeake Bay cropland by nutrient management plans or the installation of a sufficient number of livestock stream exclusion practices.

§ 62.1-69.31. Staffing and support.

The local governing bodies and Planning District Commissions found wholly or partially in the Rappahannock River Basin shall provide staff support for the Commission as the localities determine appropriate. Additional staff support may be hired or contracted for by the Commission through funds raised by or provided to it. The Commission is authorized to determine the duties of such staff and fix staff compensation within available resources.

All agencies of the Commonwealth shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its purposes and mission. The Secretary of Natural *and* Historic Resources or his designee shall act as the chief liaison between the administrative agencies and the Commission.

§ 62.1-69.32. Withdrawal; dissolution.

A. A locality may withdraw from the Commission one year after providing a written notice to the Commission of its intent to do so.

B. The Commission may dissolve itself upon a two-thirds vote of all members.

C. The Commission may be dissolved by repeal or expiration of this chapter.

D. The Commission shall be dissolved if the membership of the Commission falls below two-thirds of those eligible.

E. Upon the Commission's dissolution, all funds and assets of the Commission shall be divided on a pro rata basis. The Commonwealth's share of the funds and assets shall be transferred to the Office of the Secretary of Natural *and* Historic Resources for appropriate distribution.

§ 62.1-69.33. Funding.

A. The Commission shall annually adopt a budget, which shall include the Commission's estimated expenses. The funding of the Commission shall be a shared responsibility of state and local governments. The Commonwealth's contribution shall be set through the normal state appropriations process. The Commission's local government members shall determine a process for distribution of costs among the local government members.

B. The Commission shall annually designate a fiscal agent.

C. The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by similar enterprises. The accounts and records of the Commission shall be subject to an annual audit by the Auditor of Public Accounts or his legal representative, and the costs of such audit services shall be borne by the Commission. The results of the audits shall be delivered to the chief elected officer in each of the Commission's member jurisdictions, the members of the House of Delegates and the Senate who serve on the Commission, the chairmen of the House Appropriations Committee and the Senate Finance *and* Appropriations Committee, and the Secretary of Natural *and* Historic Resources. The Commission's fiscal year shall be the same as the Commonwealth's.

§ 62.1-69.41. Staffing and support.

The Virginia Department of Environmental Quality and the North Carolina Department of Environment and Natural Resources shall provide staff support to the Commission. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of such additional staff shall be determined and fixed by the Commission, within available resources.

All agencies of the Commonwealth of Virginia and the State of North Carolina shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The Virginia Secretary of Natural *and* Historic Resources and the North Carolina Secretary of the Department of Environment and Natural Resources or their designees shall each serve as the liaison between their respective state agencies and the Commission.

§ 62.1-69.52. Withdrawal; dissolution.

A. A locality may withdraw from the Commission one year after providing written notice to the Commission of its intent to do so.

B. The Commission may be dissolved (i) upon three-fourths vote of its members, (ii) if the membership falls below three-fourths of the number of localities eligible for membership in the Commission, or (iii) by repeal or expiration of this chapter.

C. Upon the Commission's dissolution, all funds and assets of the Commission, including funds received from private sources, shall be divided and distributed on a pro rata basis to the member local governing bodies. All state funds and assets, if any, shall be transferred to the Office of the Secretary of Natural *and* Historic Resources for appropriate distribution.

§ 62.1-195.1. Chesapeake Bay; drilling for oil or gas prohibited.

A. Notwithstanding any other law, a person shall not drill for oil or gas in the waters of the Chesapeake Bay or any of its tributaries. In Tidewater Virginia, as defined in § 62.1-44.15:68, a person shall not drill for oil or gas in, whichever is the greater distance, as measured landward of the shoreline:

1. Those Chesapeake Bay Preservation Areas, as defined in § 62.1-44.15:68, which a local government designates as "Resource Protection Areas" and incorporates into its local comprehensive plan. "Resource Protection Areas" shall be defined according to the criteria developed by the State Water Control Board pursuant to § 62.1-44.15:72; or

2. Five hundred feet from the shoreline of the waters of the Chesapeake Bay or any of its tributaries.

B. In the event that any person desires to drill for oil or gas in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A, he shall submit to the Department of Mines, Minerals and Energy as part of his application for permit to drill an environmental impact assessment. The environmental impact assessment shall include:

1. The probabilities and consequences of accidental discharge of oil or gas into the environment during drilling, production, and transportation on:

a. Finfish, shellfish, and other marine or freshwater organisms;

b. Birds and other wildlife that use the air and water resources;

- c. Air and water quality; and
- d. Land and water resources;
- 2. Recommendations for minimizing any adverse economic, fiscal, or environmental impacts; and
- 3. An examination of the secondary environmental effects of induced economic development due to the drilling and production.

C. Upon receipt of an environmental impact assessment, the Department of Mines, Minerals and Energy shall notify the Department of Environmental Quality to coordinate a review of the environmental impact assessment. The Department of Environmental Quality shall:

- 1. Publish in the Virginia Register of Regulations a notice sufficient to identify the environmental impact assessment and providing an opportunity for public review of and comment on the assessment. The period for public review and comment shall not be less than 30 days from the date of publication;
- 2. Submit the environmental impact assessment to all appropriate state agencies to review the assessment and submit their comments to the Department of Environmental Quality; and
- 3. Based upon the review by all appropriate state agencies and the public comments received, submit findings and recommendations to the Department of Mines, Minerals and Energy, within 90 days after notification and receipt of the environmental impact assessment from the Department.

D. The Department of Mines, Minerals and Energy may not grant a permit under § 45.1-361.29 until it has considered the findings and recommendations of the Department of Environmental Quality.

E. The Department of Environmental Quality shall, in conjunction with other state agencies and in conformance with the Administrative Process Act (§ 2.2-4000 et seq.), develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments required by this section.

F. A person may drill an exploratory well or a gas well in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A only if:

- 1. For directional drilling, the person has the permission of the owners of all lands to be directionally drilled into;
- 2. The person files an oil discharge contingency plan and proof of financial responsibility to implement the plan, both of which have been filed with and approved by the State Water Control Board. For purposes of this section, the oil discharge contingency plan shall comply with the requirements set forth in § 62.1-44.34:15. The Board's regulations governing the amount of any financial responsibility required shall take into account the type of operation, location of the well, the risk of discharge or accidental release, the potential damage or injury to state waters or sensitive natural resource features or the impairment of their beneficial use that may result from discharge or release, the potential cost of containment and cleanup, and the nature and degree of injury or interference with general health, welfare and property that may result from discharge or accidental release;
- 3. All land-disturbing activities resulting from the construction and operation of the permanent facilities necessary to implement the contingency plan and the area within the berm will be located outside of those areas described in subsection A;
- 4. The drilling site is stabilized with boards or gravel or other materials which will result in minimal amounts of runoff;
- 5. Persons certified in blowout prevention are present at all times during drilling;
- 6. Conductor pipe is set as necessary from the surface;
- 7. Casing is set and pressure grouted from the surface to a point at least 2500 feet below the surface or 300 feet below the deepest known ground water, as defined in § 62.1-255, for a beneficial use, as defined in § 62.1-10, whichever is deeper;
- 8. Freshwater-based drilling mud is used during drilling;
- 9. There is no onsite disposal of drilling muds, produced contaminated fluids, waste contaminated fluids or other contaminated fluids;
- 10. Multiple blow-out preventers are employed; and
- 11. The person complies with all requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 and regulations promulgated thereunder.

G. The provisions of subsection A and subdivisions F 1 and 4 through 9 shall be enforced consistent with the requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1.

H. In the event that exploration activities in Tidewater Virginia result in a finding by the Director of the Department of Mines, Minerals and Energy that production of commercially recoverable quantities of oil is likely and imminent, the Director of the Department of Mines, Minerals and Energy shall notify the Secretary of Commerce and Trade and the Secretary of Natural *and* Historic Resources. At that time, the Secretaries shall develop a joint report to the Governor and the General Assembly assessing the environmental risks and safeguards; transportation issues; state-of-the-art oil production well technology; economic impacts; regulatory initiatives; operational standards; and other matters related to the production of oil in the region. No permits for oil production wells shall be issued until (i) the Governor has had an opportunity to review the report and make recommendations, in the public interest, for legislative and regulatory changes, (ii) the General Assembly, during the next upcoming regular session, has acted on the Governor's recommendations or on its own initiatives, and (iii) any resulting legislation

has become effective. The report by the Secretaries and the Governor's recommendations shall be completed within 18 months of the findings of the Director of the Department of Mines, Minerals and Energy.