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**HOUSE BILL NO. 1308**

Offered January 26, 1998

*A BILL to amend and reenact §§ 2.1-1.7, 2.1-51.21, 2.1-127, 2.1-342, 2.1-504.2, 9-6.23, 9-6.25:1, 9-205, 9-221, 9-232, and 11-45 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 28 of Title 9 a section numbered 9-235.1, and by adding in Title 23 a chapter numbered 16.01, consisting of sections numbered 23-231.1:1 through 23-231.1:17, relating to the Virginia Technology Training Act.*

Patrons—Rust, Albo, Almand, Baker, Blevins, Bloxom, Brink, Bryant, Callahan, Croshaw, Darner, Davies, Devolites, Diamonstein, Dillard, Drake, Guest, Hall, Harris, Howell, Hull, Jones, S.C., Katzen, Keating, Kilgore, Marshall, May, McClure, McDonnell, McQuigg, Moran, Murphy, Nixon, O'Brien, Orrock, Parrish, Plum, Puller, Purkey, Rhodes, Rollison, Scott, Spruill, Tata, Van Landingham, Wagner, Wardrup, Watts and Wilkins; Senators: Gartlan, Howell, Mims, Saslaw, Ticer, Whipple and Woods

Referred to Committee on Science and Technology

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

**1. That §§ 2.1-1.7, 2.1-51.21, 2.1-127, 2.1-342, 2.1-504.2, 9-6.23, 9-6.25:1, 9-205, 9-221, 9-232, and 11-45 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 28 of Title 9 a section numbered 9-235.1 and by adding in Title 23 a chapter numbered 16.01, consisting of sections numbered 23-231.1:1 through 23-231.1:17, as follows:**

§ 2.1-1.7. State councils.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies either affiliated with more than one agency or independent of an agency within the executive branch:

Adult Education and Literacy, Virginia Advisory Council for  
Agricultural Council, Virginia  
Alcohol and Drug Abuse Problems, Governor's Council on  
Apprenticeship Council  
Blue Ridge Regional Education and Training Council  
Child Day-Care Council  
Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion  
Coastal Land Management Advisory Council, Virginia  
Commonwealth Competition Council  
Commonwealth's Attorneys' Services Council  
Developmental Disabilities Planning Council, Virginia  
Disability Services Council  
Equal Employment Opportunity Council, Virginia  
Housing for the Disabled, Interagency Coordinating Council on  
Human Rights, Council on  
Human Services Information and Referral Advisory Council  
Indians, Council on  
Interagency Coordinating Council, Virginia  
Job Training Coordinating Council, Governor's  
Land Evaluation Advisory Council  
Maternal and Child Health Council  
Military Advisory Council, Virginia  
Needs of Handicapped Persons, Overall Advisory Council on the  
Prevention, Virginia Council on Coordinating  
Public Records Advisory Council, State  
Rate-setting for Children's Facilities, Interdepartmental Council on  
Revenue Estimates, Advisory Council on  
Southside Virginia Marketing Council  
Specialized Transportation Council  
State Health Benefits Advisory Council  
Status of Women, Council on the  
Technology Council, Virginia

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60 *Technology Training Council, Virginia*

61 Virginia Business-Education Partnership Program, Advisory Council on the  
62 Virginia Recycling Markets Development Council.

63 B. Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall  
64 be referred to as councils:

65 Council on Information Management  
66 Higher Education, State Council of  
67 Independent Living Council, Statewide  
68 Rehabilitation Advisory Council, Statewide  
69 Rehabilitation Advisory Council for the Blind, Statewide.  
70 Transplant Council, Virginia

71 § 2.1-51.21. Agencies for which responsible.

72 The Secretary of Education shall be responsible to the Governor for the following agencies:  
73 Department of Education, State Council of Higher Education, Virginia Student Assistance Authorities,  
74 Virginia Museum of Fine Arts, The Science Museum of Virginia, Frontier Culture Museum of Virginia,  
75 The Library of Virginia, Jamestown-Yorktown Foundation, Board of Regents of Gunston Hall, ~~and~~ the  
76 Virginia Advisory Council for Adult Education and Literacy, *and the Virginia Technology Training*  
77 *Council*. The Governor may, by executive order, assign any other state executive agency to the Secretary  
78 of Education, or reassign any agency listed above to another secretary.

79 § 2.1-127. Compromise and settlement of disputes.

80 Except as provided in subsection B of § 23-38.33:1 *and in § 23-231.1:12*, the Attorney General shall  
81 have the authority to compromise and settle disputes, claims and controversies involving the interests of  
82 the Commonwealth, and to discharge any such claims, but only after the proposed compromise,  
83 settlement or discharge, together with the reasons therefor, have been submitted in writing to the  
84 Governor and approved by him. Where any dispute, claim or controversy involves the interests of any  
85 department, institution, division, commission, board or bureau of the Commonwealth, the Attorney  
86 General shall have authority to compromise and settle or discharge the same provided such action is  
87 approved both by the Governor, in the manner above provided, and by the head of the department,  
88 institution, division, board or bureau which is interested. However, when any dispute, claim or  
89 controversy involves the interests of any department, institution, division, commission, board or bureau  
90 of the Commonwealth, and the amount in dispute does not exceed \$50,000, the Attorney General or an  
91 assistant Attorney General assigned to such department, institution, division, commission, board or  
92 bureau shall have the authority to compromise and settle or discharge the same provided such action is  
93 approved by the head of the department, institution, division, board or bureau whose interests are in  
94 issue. When the dispute, claim or controversy involves a case in which the Commonwealth has a claim  
95 for sums due it as the result of hospital, medical or dental care furnished by or on behalf of the  
96 Commonwealth, the Attorney General or such assistant Attorney General shall have the authority to  
97 compromise and settle and discharge the same when the amount in dispute does not exceed \$50,000.

98 § 2.1-342. Official records to be open to inspection; procedure for requesting records and responding  
99 to request; charges; exceptions to application of chapter.

100 A. Except as otherwise specifically provided by law, all official records shall be open to inspection  
101 and copying by any citizens of the Commonwealth during the regular office hours of the custodian of  
102 such records. Access to such records shall not be denied to citizens of the Commonwealth,  
103 representatives of newspapers and magazines with circulation in the Commonwealth, and representatives  
104 of radio and television stations broadcasting in or into the Commonwealth. The custodian of such  
105 records shall take all necessary precautions for their preservation and safekeeping. Any public body  
106 covered under the provisions of this chapter shall make an initial response to citizens requesting records  
107 open to inspection within five work days after the receipt of the request by the public body which is the  
108 custodian of the requested records. Such citizen request shall designate the requested records with  
109 reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall  
110 not be necessary to invoke the provisions of this chapter and the time limits for response by the public  
111 body. The response by the public body within such five work days shall be one of the following  
112 responses:

113 1. The requested records shall be provided to the requesting citizen.

114 2. If the public body determines that an exemption applies to all of the requested records, it may  
115 refuse to release such records and provide to the requesting citizen a written explanation as to why the  
116 records are not available with the explanation making specific reference to the applicable Code sections  
117 which make the requested records exempt.

118 3. If the public body determines that an exemption applies to a portion of the requested records, it  
119 may delete or excise that portion of the records to which an exemption applies, but shall disclose the  
120 remainder of the requested records and provide to the requesting citizen a written explanation as to why  
121 these portions of the record are not available to the requesting citizen with the explanation making

specific reference to the applicable Code sections which make that portion of the requested records exempt. Any reasonably segregatable portion of an official record shall be provided to any person requesting the record after the deletion of the exempt portion.

4. If the public body determines that it is practically impossible to provide the requested records or to determine whether they are available within the five-work-day period, the public body shall so inform the requesting citizen and shall have an additional seven work days in which to provide one of the three preceding responses.

Nothing in this section shall prohibit any public body from petitioning the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with this petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

The public body may make reasonable charges for the copying, search time and computer time expended in the supplying of such records. The public body may also make a reasonable charge for preparing documents produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records or documents, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The public body may require the advance payment of charges which are subject to advance determination.

In any case where a public body determines in advance that search and copying charges for producing the requested documents are likely to exceed \$200, the public body may, before continuing to process the request, require the citizen requesting the information to agree to payment of an amount not to exceed the advance determination by five percent. The period within which the public body must respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the citizen requesting the information.

Official records maintained by a public body on a computer or other electronic data processing system which are available to the public under the provisions of this chapter shall be made reasonably accessible to the public at reasonable cost. Beginning July 1, 1997, every public body of state government shall compile, and annually update, an index of computer databases which contains at a minimum those databases created by them on or after July 1, 1997. "Computer database" means a structured collection of data or documents residing in a computer. Such index shall be an official record and shall include, at a minimum, the following information with respect to each database listed therein: a list of data fields, a description of the format or record layout, the date last updated, a list of any data fields to which public access is restricted, a description of each format in which the database can be copied or reproduced using the public body's computer facilities, and a schedule of fees for the production of copies in each available form. The form, context, language, and guidelines for the indices and the databases to be indexed shall be developed by the Director of the Department of Information Technology in consultation with the State Librarian and the State Archivist. The public body shall not be required to disclose its software security, including passwords.

Public bodies shall not be required to create or prepare a particular requested record if it does not already exist. Public bodies may, but shall not be required to, abstract or summarize information from official records or convert an official record available in one form into another form at the request of the citizen. The public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

Failure to make any response to a request for records shall be a violation of this chapter and deemed a denial of the request.

B. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such

183 departments under a promise of confidentiality; and all records of persons imprisoned in penal  
184 institutions in the Commonwealth provided such records relate to the imprisonment. Information in the  
185 custody of law-enforcement officials relative to the identity of any individual other than a juvenile who  
186 is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions  
187 of this chapter.

188 Criminal incident information relating to felony offenses shall not be excluded from the provisions of  
189 this chapter; however, where the release of criminal incident information is likely to jeopardize an  
190 ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection,  
191 or result in the destruction of evidence, such information may be withheld until the above-referenced  
192 damage is no longer likely to occur from release of the information.

193 2. Confidential records of all investigations of applications for licenses and permits, and all licensees  
194 and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery  
195 Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

196 3. State income, business, and estate tax returns, personal property tax returns, scholastic records and  
197 personnel records containing information concerning identifiable individuals, except that such access  
198 shall not be denied to the person who is the subject thereof, and medical and mental records, except that  
199 such records can be personally reviewed by the subject person or a physician of the subject person's  
200 choice; however, the subject person's mental records may not be personally reviewed by such person  
201 when the subject person's treating physician has made a part of such person's records a written statement  
202 that in his opinion a review of such records by the subject person would be injurious to the subject  
203 person's physical or mental health or well-being.

204 Where the person who is the subject of medical records is confined in a state or local correctional  
205 facility, the administrator or chief medical officer of such facility may assert such confined person's right  
206 of access to the medical records if the administrator or chief medical officer has reasonable cause to  
207 believe that such confined person has an infectious disease or other medical condition from which other  
208 persons so confined need to be protected. Medical records shall be reviewed only and shall not be  
209 copied by such administrator or chief medical officer. The information in the medical records of a  
210 person so confined shall continue to be confidential and shall not be disclosed to any person except the  
211 subject by the administrator or chief medical officer of the facility or except as provided by law.

212 For the purposes of this chapter such statistical summaries of incidents and statistical data concerning  
213 patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental  
214 Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in  
215 subsection A of this section. No such summaries or data shall include any patient-identifying  
216 information. Where the person who is the subject of scholastic or medical and mental records is under  
217 the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a  
218 noncustodial parent, unless such parent's parental rights have been terminated or a court of competent  
219 jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof  
220 is an emancipated minor or a student in a state-supported institution of higher education, such right of  
221 access may be asserted by the subject person.

222 4. Memoranda, working papers and correspondence (i) held by or requested from members of the  
223 General Assembly or the Division of Legislative Services or (ii) held or requested by the Office of the  
224 Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any  
225 political subdivision of the Commonwealth or the president or other chief executive officer of any  
226 state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or  
227 other papers held or requested by the mayor or other chief executive officer of any political subdivision  
228 which are specifically concerned with the evaluation of performance of the duties and functions of any  
229 locally elected official and were prepared after June 30, 1992, nor shall this exclusion apply to agenda  
230 packets prepared and distributed to public bodies for use at a meeting.

231 Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of  
232 the General Assembly held by the Division of Legislative Services shall not be released by the Division  
233 without the prior consent of the member.

234 5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the  
235 Commonwealth and any other writing protected by the attorney-client privilege.

236 6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of  
237 an active administrative investigation concerning a matter which is properly the subject of an executive  
238 or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

239 7. Confidential letters and statements of recommendation placed in the records of educational  
240 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an  
241 application for employment, or (iii) receipt of an honor or honorary recognition.

242 8. Library records which can be used to identify both (i) any library patron who has borrowed  
243 material from a library and (ii) the material such patron borrowed.

244 9. Any test or examination used, administered or prepared by any public body for purposes of

evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such test or examination and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

10. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

11. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

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

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

16. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

17. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

18. Financial statements not publicly available filed with applications for industrial development financings.

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

20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

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

22. Documents as specified in § 58.1-3.

23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

24. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the

Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

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

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

28. Documents and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

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

30. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

31. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or any institution thereof to the extent, as determined by the Director of the Department of Corrections or his designee or of the Virginia Board of Juvenile Justice, the Virginia Department of Juvenile Justice or any facility thereof to the extent as determined by the Director of the Department of Juvenile Justice, or his designee, that disclosure or public dissemination of such materials would jeopardize the security of any correctional or juvenile facility or institution, as follows:

(i) Security manuals, including emergency plans that are a part thereof;

(ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;

(iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;

(iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;

(v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;

(vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;

(vii) Logs or other documents containing information on movement of inmates, juvenile clients or employees; and

(viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

Notwithstanding the provisions of this subdivision, reports and information regarding the general operations of the Departments, including notice that an escape has occurred, shall be open to inspection and copying as provided in this section.

33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by

the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.

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

35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

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

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

38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the building code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee; however, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. [Repealed.]

41. Records concerning reserves established in specific claims administered by the Department of General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et seq.) of Chapter 32 of this title, or by any county, city, or town.

42. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Title 32.1.

43. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

44. [Repealed.]

45. Investigative notes; correspondence and information furnished in confidence with respect to an investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission; or investigative notes, correspondence, documentation and information furnished and provided to or produced by or for the Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this chapter shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information or other individuals involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of information from the records of completed investigations shall include, but is not limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. In the event an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

429 46. Data formerly required to be submitted to the Commissioner of Health relating to the  
430 establishment of new or expansion of existing clinical health services, acquisition of major medical  
431 equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

432 47. Documentation or other information which describes the design, function, operation or access  
433 control features of any security system, whether manual or automated, which is used to control access to  
434 or use of any automated data processing or telecommunications system.

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

441 49. In the case of corporations organized by the Virginia Retirement System, (i) proprietary  
442 information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or  
443 investors, and (ii) records concerning the condition, acquisition, disposition, use, leasing, development,  
444 coventuring, or management of real estate the disclosure of which would have a substantial adverse  
445 impact on the value of such real estate or result in a competitive disadvantage to the corporation or  
446 subsidiary.

447 50. Confidential proprietary records related to inventory and sales, voluntarily provided by private  
448 energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy  
449 contingency planning purposes or for developing consolidated statistical information on energy supplies.

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

453 52. [Repealed.]

454 53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and  
455 cost projections provided by a private transportation business to the Virginia Department of  
456 Transportation and the Department of Rail and Public Transportation for the purpose of conducting  
457 transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface  
458 Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such  
459 information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce  
460 Act or other laws administered by the Interstate Commerce Commission or the Federal Rail  
461 Administration with respect to data provided in confidence to the Interstate Commerce Commission and  
462 the Federal Railroad Administration. However, the exemption provided by this subdivision shall not  
463 apply to any wholly owned subsidiary of a public body.

464 54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department  
465 of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the  
466 Department not release such information.

467 55. Reports, documents, memoranda or other information or materials which describe any aspect of  
468 security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination  
469 of such materials would jeopardize the security of the Museum or any warehouse controlled by the  
470 Museum, as follows:

471 a. Operational, procedural or tactical planning documents, including any training manuals to the  
472 extent they discuss security measures;

473 b. Surveillance techniques;

474 c. Installation, operation, or utilization of any alarm technology;

475 d. Engineering and architectural drawings of the Museum or any warehouse;

476 e. Transportation of the Museum's collections, including routes and schedules; or

477 f. Operation of the Museum or any warehouse used by the Museum involving the:

478 (1) Number of employees, including security guards, present at any time; or

479 (2) Busiest hours, with the maximum number of visitors in the Museum.

480 56. Reports, documents, memoranda or other information or materials which describe any aspect of  
481 security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or  
482 public dissemination of such materials would jeopardize the security of any government store as defined  
483 in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

484 (i) Operational, procedural or tactical planning documents, including any training manuals to the  
485 extent they discuss security measures;

486 (ii) Surveillance techniques;

487 (iii) The installation, operation, or utilization of any alarm technology;

488 (iv) Engineering and architectural drawings of such government stores or warehouses;

489 (v) The transportation of merchandise, including routes and schedules; and

490 (vi) The operation of any government store or the central warehouse used by the Department of



Alcoholic Beverage Control involving the:

- a. Number of employees present during each shift;
- b. Busiest hours, with the maximum number of customers in such government store; and
- c. Banking system used, including time and place of deposits.

57. Information required to be provided pursuant to § 54.1-2506.1.

58. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

59. All information and records acquired during a review of any child death by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

60. Investigative notes, correspondence, documentation and information provided to or produced by or for the committee or the auditor with respect to an investigation or audit conducted pursuant to § ~~15.1-765.2~~ 15.2-825. Nothing in this section shall prohibit disclosure of information from the records of completed investigations or audits in a form that does not reveal the identity of complainants or persons supplying information.

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

62. Confidential proprietary records which are voluntarily provided by a private entity pursuant to a proposal filed with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible public entity for purposes related to the development of a qualifying transportation facility; and memoranda, working papers or other records related to proposals filed under the Public-Private Transportation Act of 1995, where, if such records were made public, the financial interest of the public or private entity involved with such proposal or the process of competition or bargaining would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this subdivision, the terms public entity and private entity shall be defined as they are defined in the Public-Private Transportation Act of 1995.

63. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public; engineering plans, architectural drawings, or operational specifications of governmental law-enforcement facilities, including but not limited to courthouses, jails, and detention facilities, to the extent that disclosure could jeopardize the safety or security of law-enforcement offices; however, general descriptions shall be provided to the public upon request.

64. All records of the University of Virginia or the University of Virginia Medical Center which contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center.

65. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

66. Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following: (i) an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and (ii) data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been

552 publicly released, published, copyrighted or patented.

553 67. Confidential proprietary information or trade secrets, not publicly available, provided by a private  
554 person or entity to the Virginia Resources Authority or to a fund administered in connection with  
555 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such  
556 information is made public, the financial interest of the private person or entity would be adversely  
557 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of  
558 confidentiality.

559 68. Confidential proprietary records which are provided by a franchisee under § ~~15.1-23.1~~15.2-2108  
560 to its franchising authority pursuant to a promise of confidentiality from the franchising authority which  
561 relates to the franchisee's potential provision of new services, adoption of new technologies or  
562 implementation of improvements, where such new services, technologies or improvements have not been  
563 implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such  
564 records were made public, the competitive advantage or financial interests of the franchisee would be  
565 adversely affected. In order for confidential proprietary information to be excluded from the provisions  
566 of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other  
567 materials for which protection from disclosure is sought, (ii) identify the data or other materials for  
568 which protection is sought, and (iii) state the reason why protection is necessary.

569 69. Records of the Intervention Program Committee within the Department of Health Professions to  
570 the extent such records may identify any practitioner who may be, or who is actually, impaired to the  
571 extent disclosure is prohibited by § 54.1-2517.

572 70. Records submitted as a grant application, or accompanying a grant application, to the  
573 Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of  
574 Chapter 2 of Title 32.1, to the extent such records contain: (i) medical or mental records, or other data  
575 identifying individual patients, or (ii) proprietary business or research related information produced or  
576 collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative,  
577 scientific, technical or scholarly issues, when such information has not been publicly released, published,  
578 copyrighted or patented, if the disclosure of such information would be harmful to the competitive  
579 position of the applicant.

580 71. Information which would disclose the security aspects of a system safety program plan adopted  
581 pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety  
582 Oversight agency; and information in the possession of such agency the release of which would  
583 jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway  
584 safety.

585 72. Documents and other information of a proprietary nature furnished by a supplier of charitable  
586 gaming supplies to the Charitable Gaming Commission pursuant to subsection E of § 18.2-340.34.

587 73. Personal information, as defined in § 2.1-379, provided to the Board of the Virginia Higher  
588 Education Tuition Trust Fund or its employees by or on behalf of individuals who have requested  
589 information about, applied for, or entered into prepaid tuition contracts pursuant to Chapter 4.9  
590 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit disclosure or  
591 publication of information in a statistical or other form which does not identify individuals or provide  
592 personal information. Individuals shall be provided access to their own personal information.

593 74. *Cost estimates, certain trade secrets, and other proprietary information relating to a proposed*  
594 *Technology Training Certificate Program pursuant to § 23-231.1:8.*

595 C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this  
596 title shall be construed as denying public access to contracts between a public official and a public  
597 body, other than contracts settling public employee employment disputes held confidential as personnel  
598 records under subdivision 3 of subsection B of this section, or to records of the position, job  
599 classification, official salary or rate of pay of, and to records of the allowances or reimbursements for  
600 expenses paid to, any public officer, official or employee at any level of state, local or regional  
601 government in the Commonwealth or to the compensation or benefits paid by any corporation organized  
602 by the Virginia Retirement System or its officers or employees. The provisions of this subsection,  
603 however, shall not apply to records of the official salaries or rates of pay of public employees whose  
604 annual rate of pay is \$10,000 or less.

605 D. No provision of this chapter shall be construed to afford any rights to any person incarcerated in  
606 a state, local or federal correctional facility, whether or not such facility is (i) located in the  
607 Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et  
608 seq.). However, this subsection shall not be construed to prevent an incarcerated person from exercising  
609 his constitutionally protected rights, including but not limited to his rights to call for evidence in his  
610 favor in a criminal prosecution.

611 § 2.1-504.2. Department to review proposed acquisitions of real property; approval by the Governor;  
612 exceptions.

613 Notwithstanding any provision of law to the contrary, no state department, agency or institution shall

acquire real property by gift, lease, purchase or any other means whatsoever without following guidelines promulgated by the Department of General Services and obtaining the prior approval of the Governor. The Department of General Services shall review every proposed acquisition of real property by gift, lease, purchase or any other means whatsoever by any department, agency or institution of the Commonwealth and recommend either approval or disapproval of such transactions to the Governor based on cost, demonstrated need, and compliance with the aforesaid guidelines. The provisions of this section shall not apply to (i) the acquisition of real property for open space preservations pursuant to the purposes of § 10.1-1800 and subdivision A 4 of § 10.1-2204, if it does not require as a condition of acceptance, an appropriation of any state funds for the continued maintenance of such property;; (ii) for the acquisition through the temporary lease or donation of real property for a period of six months or less duration;; (iii) *for the acquisition through lease or donation of real property for use by Certified Training Providers pursuant to the Virginia Technology Training Act, Chapter 16.01 (§ 23-231.1:1 et seq.) of Title 23, if the State Board of Community Colleges certifies that the projected revenues from facilities use fees for such Certified Training Providers are sufficient to pay the costs of such acquisition without an appropriation of any state funds;* or (iv) for the construction, improvement or maintenance of highways and transportation facilities and purposes incidental thereto by the Department of Transportation; however, acquisitions of real property by the Department of Transportation for office space, district offices, residencies, area headquarters, and correctional facilities shall be subject to such review and approval.

§ 9-6.23. (Effective July 1, 1998) Prohibition against service by legislators on boards, commissions, and councils within the executive branch.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch which are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch which is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position. The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.1-750; to members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be appointed as provided in § 9-326; to members of the Advisory Commission on Welfare Reform, who shall be appointed as provided for in § 63.1-133.44; to members of the Virginia Correctional Enterprises Advisory Board, who shall be appointed as provided for in § 2.1-451.2; to members appointed to the Virginia Veterans Cemetery Board pursuant to § 2.1-739.2; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § 9-343; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.1-563.41; ~~or~~ to members of the Advisory Commission on the Virginia Schools for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.1, *or to members of the Virginia Technology Training Council, who shall be appointed as provided for in § 23-231.3.*

§ 9-6.25:1. Advisory boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following advisory boards, commissions and councils within the executive branch:

- Advisory Board for the Department for the Deaf and Hard-of-Hearing
- Advisory Board for the Department for the Aging
- Advisory Board on Child Abuse and Neglect
- Advisory Board on Medicare and Medicaid
- Advisory Board on Occupational Therapy
- Advisory Board on Physical Therapy to the Board of Medicine
- Advisory Board on Rehabilitation Providers
- Advisory Board on Respiratory Therapy to the Board of Medicine
- Advisory Board on Teacher Education and Licensure
- Advisory Commission on the Virginia Schools for the Deaf and the Blind
- Advisory Council on Revenue Estimates

675	Advisory Council on the Virginia Business-Education Partnership Program
676	Appomattox State Scenic River Advisory Board
677	Aquaculture Advisory Board
678	Art and Architectural Review Board
679	Board for the Visually Handicapped
680	Board of Directors, Virginia Truck and Ornamentals Research Station
681	Board of Forestry
682	Board of Military Affairs
683	Board of Rehabilitative Services
684	Board of Transportation Safety
685	Board of Trustees of the Family and Children's Trust Fund
686	Board of Visitors, Gunston Hall Plantation
687	Board on Veterans' Affairs
688	Catoctin Creek State Scenic River Advisory Board
689	Cave Board
690	Chickahominy State Scenic River Advisory Board
691	Clinch Scenic River Advisory Board
692	Coal Surface Mining Reclamation Fund Advisory Board
693	Coastal Land Management Advisory Council, Virginia
694	Commonwealth Competition Council
695	Council on Indians
696	Council on the Status of Women
697	Debt Capacity Advisory Committee
698	Emergency Medical Services Advisory Board
699	Falls of the James Committee
700	Goose Creek Scenic River Advisory Board
701	Governor's Council on Alcohol and Drug Abuse Problems
702	Governor's Mined Land Reclamation Advisory Committee
703	Hemophilia Advisory Board
704	Human Services Information and Referral Advisory Council
705	Interagency Coordinating Council on Housing for the Disabled
706	Interdepartmental Board of the State Department of Minority Business Enterprise
707	Litter Control and Recycling Fund Advisory Board
708	Local Advisory Board to the Blue Ridge Community College
709	Local Advisory Board to the Central Virginia Community College
710	Local Advisory Board to the Dabney S. Lancaster Community College
711	Local Advisory Board to the Danville Community College
712	Local Advisory Board to the Eastern Shore Community College
713	Local Advisory Board to the Germanna Community College
714	Local Advisory Board to the J. Sargeant Reynolds Community College
715	Local Advisory Board to the John Tyler Community College
716	Local Advisory Board to the Lord Fairfax Community College
717	Local Advisory Board to the Mountain Empire Community College
718	Local Advisory Board to the New River Community College
719	Local Advisory Board to the Northern Virginia Community College
720	Local Advisory Board to the Patrick Henry Community College
721	Local Advisory Board to the Paul D. Camp Community College
722	Local Advisory Board to the Piedmont Virginia Community College
723	Local Advisory Board to the Rappahannock Community College
724	Local Advisory Board to the Southside Virginia Community College
725	Local Advisory Board to the Southwest Virginia Community College
726	Local Advisory Board to the Thomas Nelson Community College
727	Local Advisory Board to the Tidewater Community College
728	Local Advisory Board to the Virginia Highlands Community College
729	Local Advisory Board to the Virginia Western Community College
730	Local Advisory Board to the Wytheville Community College
731	Maternal and Child Health Council
732	Medical Advisory Board, Department of Motor Vehicles
733	Migrant and Seasonal Farmworkers Board
734	Motor Vehicle Dealer's Advisory Board
735	North Meherrin State Scenic River Advisory Board
736	Nottoway State Scenic River Advisory Board

- 737 Personnel Advisory Board
- 738 Plant Pollination Advisory Board
- 739 Private College Advisory Board
- 740 Private Enterprise Commission
- 741 Private Security Services Advisory Board
- 742 Psychiatric Advisory Board
- 743 Radiation Advisory Board
- 744 Rappahannock Scenic River Advisory Board
- 745 Recreational Fishing Advisory Board, Virginia
- 746 Reforestation Board
- 747 Rockfish State Scenic River Advisory Board
- 748 Shenandoah State Scenic River Advisory Board
- 749 Small Business Advisory Board
- 750 Small Business Environmental Compliance Advisory Board
- 751 St. Mary's Scenic River Advisory Committee
- 752 State Advisory Board on Air Pollution
- 753 State Advisory Board for the Virginia Employment Commission
- 754 State Building Code Technical Review Board
- 755 State Health Benefits Advisory Council
- 756 State Land Evaluation Advisory Council
- 757 State Networking Users Advisory Board
- 758 State Public Records Advisory Council
- 759 Statewide Independent Living Council
- 760 Statewide Rehabilitation Advisory Council
- 761 Statewide Rehabilitation Advisory Council for the Blind
- 762 Staunton Scenic River Advisory Committee
- 763 Telecommunications Relay Service Advisory Board
- 764 Virginia-Israel Advisory Board
- 765 Virginia Advisory Commission on Intergovernmental Relations
- 766 Virginia Advisory Council for Adult Education and Literacy
- 767 Virginia Coal Mine Safety Board
- 768 Virginia Coal Research and Development Advisory Board
- 769 Virginia Commission for the Arts
- 770 Virginia Commission on the Bicentennial of the United States Constitution
- 771 Virginia Correctional Enterprises Advisory Board
- 772 Virginia Council on Coordinating Prevention
- 773 Virginia Equal Employment Opportunity Council
- 774 Virginia Geographic Information Network Advisory Board
- 775 Virginia Interagency Coordinating Council
- 776 Virginia Military Advisory Council
- 777 Virginia Public Buildings Board
- 778 Virginia Recycling Markets Development Council
- 779 Virginia Technology Council
- 780 *Virginia Technology Training Council*
- 781 Virginia Transplant Council
- 782 Virginia Veterans Cemetery Board
- 783 Virginia Water Resources Research Center, Statewide Advisory Board
- 784 Virginia Winegrowers Advisory Board.
- 785 § 9-205. Powers of the Authority.
- 786 The Authority is hereby granted all powers necessary or appropriate to carry out and effectuate its
- 787 purposes including, but not limited to, the following powers to:
- 788 1. Have perpetual existence as a public body corporate and as a political subdivision of the
- 789 Commonwealth;
- 790 2. Adopt, amend, and repeal bylaws, rules and regulations not inconsistent with this chapter, to
- 791 regulate its affairs and to carry into effect the powers and the purposes of the Authority as herein stated
- 792 and for the conduct of its business;
- 793 3. Sue and be sued in its name including but not limited to bringing actions pursuant to Article 6
- 794 (§ ~~15.1-227.52~~ 15.2-2650 et seq.) of Chapter ~~5-126~~ of Title ~~15-1~~15.2 to determine the validity of any
- 795 issuance or proposed issuance of its bonds under this chapter and the legality and validity of all
- 796 proceedings previously taken or proposed in a resolution of the Authority to be taken for the
- 797 authorization, issuance, sale and delivery of such bonds and for the payment of the principal thereof and

798 interest thereon;

799 4. Have an official seal and alter it at will;

800 5. Maintain an office at such place or places within the Commonwealth as it may designate;

801 6. Make and execute contracts and all other instruments necessary and convenient for the

802 performance of its duties and the exercise of its powers under this chapter upon such terms and

803 conditions as it deems appropriate;

804 7. Employ office personnel, advisers, consultants, professionals and agents as may be necessary in its

805 judgment, and to fix their compensation;

806 8. Procure insurance against any loss in connection with its property and other assets, including but

807 not limited to loans in such amounts and from such insurers as it may deem advisable;

808 9. Borrow money and issue bonds as provided by this chapter;

809 10. Procure insurance or guarantees from any public or private entities, including any department,

810 agency or instrumentality of the United States of America, or, subject to the provisions of and to the

811 extent moneys are available in the fund created by § 9-211, insure or guarantee the payment of any

812 bonds issued by the Authority, including the power to pay premiums on any such insurance or

813 guarantees or other instruments of indebtedness;

814 11. Receive and accept from any source aid or contributions of money, property, labor or other

815 things of value to be held, used and applied to carry out the purposes of this chapter (subject, however,

816 to any conditions upon which grants or contributions are made) including, but not limited to gifts or

817 grants from any department, agency or instrumentality of the United States of America;

818 12. Enter into agreements with any department, agency or instrumentality of the United States of

819 America or of the Commonwealth and with lenders and enter into loans with contracting parties for the

820 purpose of planning, regulating and providing for the financing or assisting in the financing of any

821 eligible small business or any project thereof;

822 13. Enter into contracts or agreements with lenders for the servicing and/or processing of loans;

823 14. Provide technical assistance to local industrial development authorities and to profit and nonprofit

824 entities in the development or operation by, or assistance to, persons engaged in small business

825 enterprises and distribute data and information concerning the encouragement and improvement of small

826 business enterprises in the Commonwealth;

827 15. To the extent permitted in the proceedings pursuant to which the bonds of the Authority are

828 issued, consent to any modification with respect to the rate of interest, time for, and payment of, any

829 installment of principal or interest, or any other term of any contract, loan, sales contract, lease,

830 indenture or agreement of any kind to which the Authority is a party;

831 16. To the extent permitted in the proceedings pursuant to which the bonds of the Authority are

832 issued, enter into contracts with any lender containing provisions authorizing the lender to reduce the

833 charges or fees, exclusive of loan payments, to persons unable to pay the regular schedule thereof when,

834 by reason of other income or payment by any department, agency or instrumentality of the United States

835 of America or the Commonwealth, the reduction can be made without jeopardizing the economic

836 stability of the eligible small business being financed;

837 17. Allocate any of its property to the insurance or guarantee fund established by § 9-211 or to any

838 other fund of the Authority, such property consisting of:

839 a. Moneys appropriated by the Commonwealth;

840 b. Premiums, fees and any other amounts received by the Authority with respect to financial

841 assistance provided by the Authority;

842 c. Proceeds as designated by the Authority from the loan or other disposition of property held or

843 acquired by the Authority;

844 d. Income from investments that were made by the Authority or on the behalf of the Authority from

845 moneys in one or more of its funds; or

846 e. Any other moneys made available to the Authority consistent with this chapter;

847 18. To use any fund or funds of the Authority for any and all expenses to be paid by the Authority

848 including, by way of example, but not by limitation: (i) any and all expenses for administrative, legal,

849 actuarial, and other services; (ii) all costs, charges, fees and expenses of the Authority relating to the

850 authorizing, preparing, printing, selling, issuing, and insuring of bonds and the funding of reserves; and

851 (iii) all expenses and costs relating to the guaranteeing, insuring or procurement of guarantees, insurance

852 or other instruments providing credit or the enhancement of credit for the bonds;

853 19. To collect fees and charges, as the Authority determines to be reasonable, in connection with its

854 loans, insurance, guarantees, commitments and servicing thereof;

855 20. To sell, at public or private sale, with or without public bidding, any obligation held by the

856 Authority;

857 21. To invest any funds not needed for immediate disbursement, including any funds held in reserve,

858 in any obligations or securities which may be legally purchased by political subdivisions in the

859 Commonwealth or as may be otherwise permitted by § 9-230;

22. To administer the Private Activity Bonds program in Chapter 33.250 (§ 15.1-1399.10 15.2-5000 et seq.) of Title 15.1 and 15.2, the Virginia Economic Development Revolving Fund in Chapter 22.1 (§ 59.1-284.1 et seq.) of Title 59.1, and the Virginia Technology Training Loan Revolving Fund and Program in Chapter 16.01 (§ 23-231.1:1 et seq.) of Title 23; and

23. To take any action necessary or convenient for the exercise of the powers granted by this chapter or reasonably implied from them.

§ 9-221. Liability of Commonwealth, political subdivisions and members of Board.

No bonds issued or loans or loan guarantees made by the Authority under this chapter or pursuant to Chapter 16.01 (§ 23-231.1:1 et seq.) of Title 23 shall constitute a debt, liability or general obligation of the Commonwealth or any political subdivision thereof (other than the Authority), or a pledge of the faith and credit of the Commonwealth or any political subdivision thereof (other than the Authority), but shall be payable solely as provided by the Authority. No member or officer of the Board nor any person executing the bonds, loans, or loan guarantees shall be liable personally on the bonds, loans, or loan guarantees by reason of the issuance thereof. Each bond issued or loan or loan guarantee made under this chapter shall contain on the face thereof a statement that neither the Commonwealth, nor any other political subdivision thereof, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenue or money pledged by the Authority and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bond, loan, or loan guarantee.

§ 9-232. Expenses of Authority; liability of Commonwealth or political subdivision prohibited.

All expenses incurred by the Authority in carrying out the provisions of this chapter or Chapter 16.01 (§ 23-231.1:1 et seq.) of Title 23 shall be payable solely from funds provided under this chapter, and nothing in this chapter shall be construed to authorize the Authority to incur indebtedness or liability on behalf of or payable by the Commonwealth or any other political subdivision thereof.

§ 9-235.1. Authority not within statue of limitations. For the purpose of § 8.01-231, the Authority shall be deemed to be an agency of the Commonwealth.

§ 11-45. Exceptions to requirement for competitive procurement.

A. Any public body may enter into contracts without competition for the purchase of goods or services (i) which are performed or produced by persons, or in schools or workshops, under the supervision of the Virginia Department for the Visually Handicapped; or (ii) which are performed or produced by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.

B. Any public body may enter into contracts without competition for (i) legal services, provided that the pertinent provisions of Chapter 11 (§ 2.1-117 et seq.) of Title 2.1 remain applicable; or (ii) expert witnesses and other services associated with litigation or regulatory proceedings.

C. Any public body may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

D. An industrial development authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as defined in § 15.1-1374 (d) 15.2-4902.

E. The Department of Alcoholic Beverage Control may procure alcoholic beverages without competitive sealed bidding or competitive negotiation.

F. Any public body administering public assistance programs as defined in § 63.1-87, the fuel assistance program, community services boards as defined in § 37.1-1, or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§ 2.1-745 et seq.) may procure goods or personal services for direct use by the recipients of such programs without competitive sealed bidding or competitive negotiations if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 11-41.

G. Any public body may enter into contracts without competitive sealed bidding or competitive negotiation for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

H. The Department of Health may enter into contracts with laboratories providing cytology and related services without competitive sealed bidding or competitive negotiation if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

I. The Director of the Department of Medical Assistance Services may enter into contracts without

921 competitive sealed bidding or competitive negotiation for special services provided for eligible recipients  
 922 pursuant to § 32.1-325 E, provided that the Director has made a determination in advance after  
 923 reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive  
 924 negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent  
 925 threat to the health or welfare of such recipients. The writing shall document the basis for this  
 926 determination.

927 J. The Virginia Code Commission may enter into contracts without competitive sealed bidding or  
 928 competitive negotiation when procuring the services of a publisher, pursuant to §§ 9-77.7 and 9-77.8, to  
 929 publish the Code of Virginia or the Virginia Administrative Code.

930 K. (Effective until July 1, 1999) The State Health Commissioner may enter into agreements or  
 931 contracts without competitive sealed bidding or competitive negotiation for the compilation, storage,  
 932 analysis, evaluation, and publication of certain data submitted by health care providers and for the  
 933 development of a methodology to measure the efficiency and productivity of health care providers  
 934 pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a  
 935 determination in advance, after reasonable notice to the public and set forth in writing, that competitive  
 936 sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public.  
 937 The writing shall document the basis for this determination. Such agreements and contracts shall be  
 938 based on competitive principles.

939 L. A community development authority formed pursuant to ~~subsection B of § 15.1-1241, with~~  
 940 ~~members selected pursuant to subdivision 5 of that subsection, Article 6 of Chapter 51 (§ 15.2-5152 et~~  
 941 ~~seq.) of Title 15.2~~ may enter into contracts without competition with respect to the exercise of any of its  
 942 powers permitted by § ~~15.1-1250.03~~15.2-5158; however, this exception shall not apply in cases where  
 943 any public funds other than special assessments and incremental real property taxes levied pursuant to  
 944 § ~~15.1-1250.03~~15.2-5158 are used as payment for such contract.

945 M. Virginia Correctional Enterprises may enter into contracts without competitive sealed bidding or  
 946 competitive negotiation when procuring materials, supplies, or services for use in and support of its  
 947 production facilities, provided such procurement is accomplished using procedures which ensure the  
 948 efficient use of funds as practicable and, at a minimum, shall include obtaining telephone quotations.  
 949 Such procedures shall require documentation of the basis for awarding contracts under this section.

950 N. The Virginia Baseball Stadium Authority may enter into agreements or contracts without  
 951 competitive sealed bidding or competitive negotiation for the operation of any facilities developed under  
 952 the provisions of Chapter ~~5-358~~ (§ ~~15.2-5800~~15.1-227.70 et seq.) of Title ~~15-1~~15.2, including contracts  
 953 or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

954 O. The Department of Health may procure child restraint devices, pursuant to § 46.2-1097, without  
 955 competitive sealed bidding or competitive negotiation.

956 P. *The Virginia Technology Training Council may select Certified Training Providers for the*  
 957 *Virginia Technology Training Certificate Program pursuant to Chapter 16.01 (§ 23-231.1:1 et seq.) of*  
 958 *Title 23.*

#### 959 CHAPTER 16.01.

#### 960 VIRGINIA TECHNOLOGY TRAINING ACT.

961 § 23-231.1:1. *Definitions.*

962 *As used in this chapter:*

963 *"Authority" means the Small Business Financing Authority created pursuant to Chapter 28 (§ 9-199*  
 964 *et seq.) of Title 9.*

965 *"Board" or "State Board" means the State Board of Community Colleges.*

966 *"Certified Training Provider" means an entity selected to provide training and educational programs*  
 967 *under the Virginia Technology Training Certificate Program.*

968 *"Community college" means an institution of higher education which offers instruction in one or*  
 969 *more of the following fields:*

970 (1) *Freshman and sophomore courses in arts and sciences acceptable for transfer in baccalaureate*  
 971 *degree programs;*

972 (2) *Diversified technical curricula including programs leading to the associate degree;*

973 (3) *Vocational and technical education leading directly to employment; or*

974 (4) *Courses in general and continuing education for adults in the above fields.*

975 *"Council" or "Technology Training Council" means the Virginia Technology Training Council.*

976 *"Fund" means the Technology Training Student Loan Revolving Fund.*

977 *"Guarantor" means the Small Business Financing Authority or any other person or entity which may*  
 978 *guarantee, insure, or otherwise undertake to pay or protect any interests or rights the Small Business*  
 979 *Financing Authority may acquire pursuant to any Technology Training Student Loan Program, or*  
 980 *otherwise.*

981 *"Regional Workforce Development Center" means an organization established in each planning*  
 982 *district to assist the Technology Training Council in establishing and promoting Technology Training*



983 *Certificate Programs.*

984 *"Service delivery area" means the geographic area of Virginia in which the Technology Training*  
 985 *Council identifies a specific and existing workforce need.*

986 *"Technology Training Certificate Program" means certificate programs offering instruction in*  
 987 *diversified technical curricula, not otherwise leading to an associate degree, which the Board has*  
 988 *approved as a certificate program for the purpose of meeting information technology and other specific*  
 989 *existing and identified workforce needs in Virginia.*

990 *"Technology Training Student Loan" means a loan to a Technology Training Student to meet the*  
 991 *costs of Technology Training Certificate Programs at Certified Training Providers in accordance with*  
 992 *the provisions of this chapter.*

993 *"Technology Training Student" means a student enrolled in an approved Technology Training*  
 994 *Certificate Program.*

995 *§ 23-231.1:2. Program established; Board to administer.*

996 *To provide a qualified and competent workforce for Virginia's employers, there is hereby established*  
 997 *the Virginia Technology Training Certificate Program, to be administered by the State Board for*  
 998 *Community Colleges. The Program shall consist of certificate programs approved by the Board that (i)*  
 999 *do not otherwise lead to an associate degree and (ii) provide instruction in information technology and*  
 1000 *other diversified technical curricula designed to meet specific, identified workforce needs in Virginia.*

1001 *The Board shall promulgate regulations and develop procedures for the operation of the Program*  
 1002 *consistent with this chapter, including criteria for certificate programs and Certified Training Providers.*  
 1003 *Such regulations shall be promulgated in accordance with the Administrative Process Act (§ 9-6.14:1 et*  
 1004 *seq.).*

1005 *§ 23-231.1:3. General program requirements.*

1006 *Except as otherwise provided in this chapter, the following conditions are applicable to all*  
 1007 *Technology Training Certificate Programs:*

1008 *1. Each Certified Training Provider shall make its Technology Training Certificate Programs*  
 1009 *available to eligible members of the general public working or residing in the service delivery area.*

1010 *2. The Council shall develop Technology Training Certificate Programs to meet specific and existing*  
 1011 *workforce needs which the Council has identified in sectors of the economy which have high potential*  
 1012 *for sustained demand or growth.*

1013 *3. The Council shall not establish Technology Training Certificate Programs or Certified Training*  
 1014 *Facilities which duplicate facilities or services existing and available in the service delivery area, unless*  
 1015 *the Council makes specific findings in writing that alternative services or facilities would be more*  
 1016 *effective or more likely to achieve performance goals.*

1017 *§ 23-231.1:4. Virginia Technology Training Council; membership.*

1018 *A. The Virginia Technology Training Council is hereby established within the executive branch and*  
 1019 *shall be referred to in this chapter as the Council. The Council shall be composed of fifteen members as*  
 1020 *follows: two members of the House of Delegates, to be appointed by the Speaker of the House for terms*  
 1021 *of two years, and two members of the Senate, to be appointed by the Senate Committee on Privileges*  
 1022 *and Elections for terms of four years; seven members to be appointed by the Governor to serve at his*  
 1023 *pleasure, one member representing proprietary career schools certified or approved in Virginia and six*  
 1024 *members representing business and industry; and the Chancellor of the Board and the Presidents of*  
 1025 *Northern Virginia Community College, George Mason University, and the Center for Innovative*  
 1026 *Technology shall serve as ex officio members of the Council.*

1027 *Nonlegislative members shall serve terms of three years. Legislators' terms shall be concurrent with*  
 1028 *their elected terms of office, provided that the terms of such members shall terminate in the event they*  
 1029 *no longer are members of their respective houses. Appointments to fill vacancies shall be for the*  
 1030 *unexpired term and shall be made in the same manner as the original appointment.*

1031 *B. The Council shall elect a chairman and vice chairman from among its members.*

1032 *C. The Board shall provide staffing and support to the Council.*

1033 *§ 23-231.1:5. Powers and duties.*

1034 *A. The Council shall meet at least quarterly and shall have the following powers and duties:*

1035 *1. To develop and recommend to the Board for approval certificate programs consisting of technical*  
 1036 *curricula, not otherwise leading to an associate degree, for the purpose of meeting specific and*  
 1037 *identified workforce needs in Virginia. In developing and recommending such programs, the Council*  
 1038 *shall address information technology workforce needs;*

1039 *2. To make alterations from time to time in such approved Technology Training Certificate Programs*  
 1040 *as it may deem necessary to meet the changing needs of specified industries;*

1041 *3. To review and promote the implementation of its recommendations as a part of the Virginia*  
 1042 *Technology Certificate Program;*

1043 *4. With the assistance of the Regional Workforce Centers, to seek to identify other specific and*

1044 existing workforce needs in sectors of the economy which have high potential for sustained demand or  
1045 growth;

1046 5. To meet with representatives of each Regional Workforce Center at least annually to assess and  
1047 discuss workforce needs within the planning district which such Regional Workforce Center serves;

1048 6. Consistent with regulation of the Board and the provisions of § 23-231.7, to select Certified  
1049 Training Providers; and

1050 7. To report quarterly to the Secretaries of Education and Commerce and Trade and annually to the  
1051 Governor and the General Assembly regarding its recommendations and their implementation, and  
1052 potential program and policy initiatives.

1053 § 23-231.1:6. Regional Workforce Development Centers.

1054 A. There are hereby established Regional Workforce Development Centers in each planning district  
1055 to assist the Technology Training Council in establishing and promoting the Technology Training  
1056 Certificate Program. Each Regional Workforce Development Center shall seek to identify specific and  
1057 existing workforce needs in sectors of the economy which have high potential for sustained demand or  
1058 growth within its planning district and shall report annually to the Technology Training Council  
1059 concerning planning district workforce needs.

1060 B. Any regional partnership formed pursuant to the Regional Competitiveness Act (§ 15.2-1306 et  
1061 seq.) is hereby designated as the Regional Workforce Development Center for the planning district  
1062 which it serves, unless such regional partnership shall adopt a resolution declining such designation. In  
1063 the event that no regional partnership exists in the planning district or in the event that such regional  
1064 partnership declines to be designated as the Regional Workforce Development Center for the planning  
1065 district, the Governor shall appoint the Regional Workforce Development Center for such planning  
1066 district, consisting of seven members representing business and industry within the planning district  
1067 which such Regional Workforce Development Center serves. Appointed members shall serve at the  
1068 pleasure of the Governor.

1069 § 23-231.1:7. Selection of Certified Training Providers.

1070 In selecting Certified Training Providers, the Council shall not be subject to the provisions of the  
1071 Virginia Public Procurement Act (§ 11-35 et seq.), but shall select Certified Training Providers meeting  
1072 criteria established by the Board pursuant to this section.

1073 Upon the identification of specific and existing workforce needs within a service delivery area and  
1074 those training and educational programs meeting such needs, the Council shall indicate, in general  
1075 terms, the curricula and training to be provided and shall specify the anticipated programmatic needs.

1076 The Council shall seek program proposals directly from the community college in the service delivery  
1077 area and may seek proposals directly from other institutions of higher education and private companies  
1078 providing educational and training services within the service delivery area.

1079 Workforce training and retraining programs operated under the auspices of the Department of  
1080 Business Assistance shall be eligible for certification as Certified Training Providers.

1081 After review of the proposed programs and discussions with each of the qualified providers, the  
1082 Council shall select one or more providers as a Certified Training Provider to provide the identified  
1083 training and educational programs under the Technology Training Certificate Program. Selection as a  
1084 Certified Training Provider shall be effective for one year and shall be limited to the specific training  
1085 and educational programs approved by the Technology Training Council. The Council may renew such  
1086 selection from year to year in its sole discretion.

1087 § 23-231.1:8. Public inspection of certain records.

1088 A. Except as otherwise provided herein, all proceedings, records, contracts and other public records  
1089 relating to selection of a Certified Training Provider shall be open to the inspection of any citizen or  
1090 any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act  
1091 (§ 2.1-340 et seq.).

1092 B. Cost estimates relating to a proposed Technology Training Certificate Program prepared by or  
1093 for the Council shall not be open to public inspection.

1094 C. Subject to the requirements in this chapter to protect proprietary information, any offeror, upon  
1095 request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the  
1096 evaluation and negotiation of proposals are completed but prior to award, except in the event that the  
1097 Council decides not to accept any of the proposals and to reopen the request for training services.  
1098 Otherwise, proposal records shall be open to public inspection only after designation of a Certified  
1099 Training Provider. Any inspection of proposal records under this section shall be subject to reasonable  
1100 restrictions to ensure the security and integrity of the records.

1101 D. Trade secrets or proprietary information, including information concerning salaries, internal costs  
1102 and rates of return, which an offeror, including a community college or an institution of higher  
1103 education, submits in connection with a proposed Technology Training Certificate Program shall not be  
1104 subject to public disclosure under the Virginia Freedom of Information Act; provided, however, the  
1105 offeror must invoke the protections of this section prior to or upon submission of the data or other

materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

§ 23-231.1:9. Funds for Technology Training Certificate Programs.

Approved Technology Training Certificate Programs offered by community colleges may receive general fund support as provided in the appropriation act.

§ 23-231.1:10. Authorization of facilities use and equipment rental fees.

Local community college boards may require Technology Training Students to pay facilities use and equipment rental fees beyond regular tuition charges for Technology Training Certificate Programs requiring specialized facilities or equipment. Such fees shall either be paid by the Technology Training Students directly to the provider of the facilities or equipment or to the college for reimbursement to such provider. The fees must be no more than the normal fees charged to the general public for the same or similar facilities or equipment. The nature of each fee authorized by this section shall be described in course schedules. All fees authorized by this section shall be reported to the Virginia Community College System annually.

§ 23-231.1:11. Technology Training Student Loan Program and Revolving Fund; Small Business Financing Authority to administer.

A. To facilitate the training of residents of this Commonwealth, to provide a qualified and competent workforce for Virginia's employers, and to promote the industrial and economic development of the Commonwealth, which purposes are hereby declared and determined to be public purposes, there is hereby created the Technology Training Student Loan Program, to be administered by the Small Business Financing Authority.

B. There is hereby established a permanent revolving fund, to be known as the Technology Training Student Loan Revolving Fund, referred to in this chapter as the Fund, which the Authority shall administer and manage as provided in this chapter. The Fund shall be comprised of (i) sums appropriated to it by the General Assembly; (ii) receipts of guaranty insurance premiums, loan payments, and all other revenues by the Fund; (iii) all income from the investment of moneys held by the Fund; and (iv) any other sums designated for deposit to the Fund from any source, public or private. The assets of the Fund shall be reserved, invested, and expended solely by the Authority pursuant to and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the Commonwealth for any other purpose.

If the Authority ceases to guarantee such loans, the reserves set aside for those programs will revert to the Commonwealth to be held and administered for purposes consistent with administration of such loans. After payment of or provision for all obligations incurred by the Authority under such loans, amounts remaining in the Fund established or maintained to support such loans shall be transferred to the general fund of the Commonwealth, free of the restrictions imposed by this subsection. The Authority shall liquidate its remaining assets, pay or provide for any remaining obligations and liabilities, and deposit any net proceeds into the general fund of the Commonwealth.

C. The Authority is hereby authorized and empowered to invest and reinvest all such trust funds except that no investments shall be made in securities which, at the time of making such investments, are by statute prohibited for the investment of reserves of domestic life insurance companies, except in the exercise of bona fide discretion. Subject to such limitations, the Authority shall have full power to purchase, hold, sell, assign, transfer and dispose of all funds, assets and investments comprising such trust funds.

D. The Authority shall establish, maintain, and account for the Fund as a separate fund, which shall be used solely for the purposes of acquiring contingent interests in Technology Training Student Loans in accordance with the provisions of this chapter and from which the Authority shall pay the guaranty obligations it incurs and its operating expenses. The Authority shall promulgate regulations and develop procedures for the administration and management of the Fund consistent with this chapter.

E. The Authority may acquire from lenders contingent interests in Technology Training Student Loan obligations and may fix, revise and charge guaranty insurance premiums for acquiring such contingent interests, except that the Authority shall not acquire additional contingent interests in Technology Training Student Loan obligations to the extent such additional contingent interests would then cause the current unpaid balance of all contingent interests then held by the Authority to exceed 100 times the amount of all cash, cash equivalents, investments, and federal reinsurance receivables which would then be available to the Authority to purchase the underlying Technology Training Student Loan obligations in the event of default.

F. The Authority shall prescribe the terms and conditions upon which it will acquire contingent interests in Technology Training Student Loans, including, without limiting the generality thereof, the interest rate payable on such loans, the maturities thereof, the terms for payment of principal and interest, which are consistent with market conditions and which shall provide a repayment schedule sufficient to amortize the cost of the training over its expected useful life, not to exceed sixty months,

1167 applicable life or other insurance which may be required in connection with any such Technology  
1168 Training Student Loans and who shall pay the premiums thereon, the safekeeping of any assets pledged  
1169 to secure any such loans, and any and all matters in connection with the foregoing as will protect the  
1170 assets of the Authority.

1171 G. In allocating its resources, the Authority shall provide for the training needs of Technology  
1172 Training Students who are Virginia residents or who are employed full time in Virginia and whose  
1173 employers make direct loan payments by payroll deduction or tuition assistance before providing for the  
1174 training needs of other Technology Training Students. Nothing herein shall be construed to impose an  
1175 obligation upon an employer to make loan payments or to continue tuition assistance after termination  
1176 of the employment of a Technology Training Student.

1177 § 23-231.1:12. Additional powers of Authority.

1178 In addition to the powers conferred by Chapter 28 (§ 9-197 et seq.) of Title 9, the Authority is  
1179 hereby authorized and empowered:

1180 1. To guarantee, acquire contingent interests in, purchase, collect, sell and discharge Technology  
1181 Training Loans, upon such terms and conditions as the Authority may prescribe;

1182 2. To fix, revise, charge and collect premiums and fees for guaranteeing Technology Training Loans,  
1183 and for its other acts or undertakings;

1184 3. To perform all other acts which are necessary or advisable to the establishment and conduct of  
1185 Technology Training Student Loan programs;

1186 4. To compromise, satisfy and otherwise provide for any and all of its obligations and liabilities,  
1187 including any and all contingent and unliquidated claims, obligations and liabilities. In paying,  
1188 discharging, compromising, satisfying or otherwise providing for its obligations and liabilities, which  
1189 obligations and liabilities shall not constitute obligations and liabilities of the Commonwealth, the  
1190 Authority shall not be subject to § 2.1-127 or other provisions of law applicable to the payment,  
1191 discharge, compromise, satisfaction, settlement or other provision for claims against the Commonwealth.  
1192 The Authority may reserve for payment to third parties for its obligations and liabilities, and may  
1193 establish, hold, invest, reinvest, and maintain such reserves as are deemed sufficient to meet such  
1194 obligations and liabilities;

1195 5. To invest and reinvest the funds and assets of the Authority in accordance with applicable law  
1196 and agreements governing same;

1197 6. To adopt bylaws, rules and regulations to effectuate the purposes of this chapter;

1198 7. To acquire title to, hold and dispose of real and personal property in the name of the Authority;

1199 8. To make and enter into all contracts and agreements necessary or incidental to the performance  
1200 of its duties, the furtherance of its purposes and the execution of its powers under this chapter,  
1201 including agreements with the United States government, or any agency or other instrumentality thereof;

1202 9. To employ, in its discretion, consultants, accountants and financial experts, underwriters,  
1203 placement agents, and such other agents as may be necessary in its judgment, and to fix their  
1204 compensation to be payable from funds made available to such Authority. Legal services in civil matters  
1205 shall be rendered and performed by the Attorney General in accordance with Chapter 11 (§ 2.1-117 et  
1206 seq.) of Title 2.1, and special counsel may only be employed by the Authority with approval and  
1207 appointment by the Attorney General or as may otherwise be authorized by § 2.1-122;

1208 10. To receive and accept from any federal or private agency, corporation, association or person  
1209 funds and grants to be expended in accomplishing the objectives of the Authority, and to receive and  
1210 accept from the Commonwealth, from any municipality, county or other political subdivision thereof, and  
1211 from any other source aid or contributions of either money, property, or other things of value, to be  
1212 held, used and applied only for the purposes for which such grants and contributions may be made;

1213 11. To render advice and assistance, and to provide services to institutions of higher education,  
1214 financial institutions and other entities providing financial aid to or for the benefit of Technology  
1215 Training Students;

1216 12. To examine the records of institutions of higher education and participating lenders to determine  
1217 compliance with the requirements of each Authority and its programs, including, but not limited to,  
1218 records relating to potential and existing Technology Training Loan recipients;

1219 13. To conduct investigations to determine whether applications and other data submitted to either  
1220 Authority for the purpose of securing Technology Training Loans contain any misrepresentations or  
1221 false statements made for the purpose of cheating or defrauding any person;

1222 14. To sue and be sued in the name of the Authority. In connection with the collection of Technology  
1223 Training Loans, the board of directors may designate a person to institute actions in the general district  
1224 courts of the Commonwealth and may otherwise act as agent of the Authority; and

1225 15. To do all other acts and things necessary or convenient to carry out the powers expressly  
1226 granted in this chapter; however, nothing in this chapter shall be construed to empower the Authority to  
1227 engage in the business of banking or insurance.

1228 § 23-231.1:13. Limitation upon loans to students.

*In any one program year, no Technology Training Student may receive a loan or loans in which the Authority acquires a contingent interest which would result in that student owing a net outstanding amount at the end of that program year in excess of the tuition and required fees, including any facilities use and equipment rental fees, which the Certified Training Facility has charged to the Technology Training Student.*

*§ 23-231.1:14. Fraudulently obtaining loan; penalty.*

*Any person who knowingly and willfully makes or causes to be made any false statement or representation or willful concealment of a material fact in an application resulting in the granting of a Technology Training Student Loan guaranteed by the Authority or who attempts or aids, assists or abets in committing or attempting such acts shall be subject to a civil penalty. The Authority may petition a court of competent jurisdiction for an order assessing a civil penalty in an amount equal to the Technology Training Student Loan which was obtained or sought, and for reasonable attorney's fees. The assessment of such penalty shall not affect the right of the Authority to recover, with interest, the amount of any Technology Training Student Loan so obtained. Civil penalties collected pursuant to this section shall be deposited to the Fund.*

*§ 23-231.1:15. Biennial audits.*

*The Auditor of Public Accounts, or his legally authorized representatives, shall at least biennially audit the Fund and the accounts of the Authority, and the cost of such audit services as shall be required shall be borne by the Authority.*

*§ 23-231.1:16. Security interest in loans.*

*Any pledge by the Authority of its interest in any loan under this chapter shall be valid and binding from the time the pledge is made. The Authority's interest in such loans shall immediately be subject to the lien of such pledge. Notwithstanding any provision of Title 8.9, a security interest in the pledged interest in the loan may be perfected without physical delivery or filing or any further act at the time of the agreement by which the pledge is created.*

*§ 23-231.1:17. Construction of chapter.*

*The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may be effectuated.*

**2. That the regulations required by §§ 23-231.1:2 and 23-231.1:11 shall be promulgated to be effective within 280 days of the enactment of this act.**