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**HOUSE BILL NO. 1957**

Offered January 8, 2003

Prefiled January 7, 2003

*A BILL to amend and reenact §§ 2.2-200, 2.2-203.1, 2.2-204, 2.2-210, 2.2-603, 2.2-1400, 2.2-1701, 2.2-1704, 2.2-2203, 2.2-2220, 2.2-2235, 2.2-2242, 2.2-2249, 2.2-2316, 2.2-2440, 2.2-2445, 2.2-2600, 2.2-2640, 2.2-2651, 2.2-2669, 2.2-2670, 2.2-3503, 2.2-3504, 2.2-3803, 2.2-5100, 2.2-5501, 3.1-18.6, 3.1-1108, 10.1-1100, 15.2-946.1, 15.2-946.3, 15.2-946.4, 22.1-226.1, 23-231.9, 36-150, 56-586.1, 59.1-284.13 through 59.1-284.15, 59.1-497, 62.1-195.1, and 66-25.1 of the Code of Virginia, to amend the Code of Virginia by adding in Article 3 of Chapter 2 of Title 2.2 sections numbered 2.2-207.1 through 2.2-207.4, and to repeal Article 9 (§§ 2.2-225 through 2.2-227) of Chapter 2 of Title 2.2 of the Code of Virginia, relating to the consolidation of the Office of the Secretary of Commerce and Trade with the Office of the Secretary of Technology.*

Patron—Hamilton

Referred to Committee on General Laws

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

**1. That §§ 2.2-200, 2.2-203.1, 2.2-204, 2.2-210, 2.2-603, 2.2-1400, 2.2-1701, 2.2-1704, 2.2-2203, 2.2-2220, 2.2-2235, 2.2-2242, 2.2-2249, 2.2-2316, 2.2-2440, 2.2-2445, 2.2-2600, 2.2-2640, 2.2-2651, 2.2-2669, 2.2-2670, 2.2-3503, 2.2-3504, 2.2-3803, 2.2-5100, 2.2-5501, 3.1-18.6, 3.1-1108, 10.1-1100, 15.2-946.1, 15.2-946.3, 15.2-946.4, 22.1-226.1, 23-231.9, 36-150, 56-586.1, 59.1-284.13 through 59.1-284.15, 59.1-497, 62.1-195.1, and 66-25.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 2 of Title 2.2 sections numbered 2.2-207.1 through 2.2-207.4 as follows:**

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

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

B. Each Secretary shall be subject to direction and supervision by the Governor. Except as provided in Article 5 (§ 2.2-208 et seq.) of this chapter, the agencies assigned to each Secretary shall:

1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;

2. Provide such assistance to the Governor or the Secretary as may be required; and

3. Forward all reports to the Governor through the Secretary.

C. Unless the Governor expressly reserves such power to himself and except as provided in Article 5 (§ 2.2-208 et seq.) of this chapter, each Secretary may:

1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;

2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.2-1508 encompassing the services of agencies assigned for consideration by the Governor;

3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;

4. Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government;

5. Sign documents on behalf of the Governor that originate with agencies assigned to the Secretary; and

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

D. As used in this chapter, "Governor's Secretaries" means the Secretary of Administration, the Secretary of Commerce and Trade ~~Technology~~, the Secretary of Education, the Secretary of Finance, the Secretary of Health and Human Resources, the Secretary of Natural Resources, the Secretary of Public Safety, ~~the Secretary of Technology~~, and the Secretary of Transportation.

§ 2.2-203.1. Secretary to establish telecommuting policy.

A. The Secretary, in cooperation with the Secretary of *Commerce and Technology* and in consultation with the Council on Technology Services, shall establish a comprehensive statewide

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telecommuting policy under which eligible employees of state agencies, as determined by state agencies, may telecommute, and the Secretary shall periodically update such policy as necessary.

B. The telecommuting policy described in subsection A shall include, but not be limited to, model guidelines, rules and procedures for telecommuting. Such policy may also include an incentive program, to be established and administered by the Department of Human Resources Management, that may encourage state employees to telecommute and that may encourage the state agencies' management personnel to promote telecommuting.

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and ~~Trade~~ Technology (the "Secretary") is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Business Assistance, Department of Forestry, Virginia Economic Development Partnership Authority, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Milk Commission, Department of Agriculture and Consumer Services, Department of Housing and Community Development, Department of Minority Business Enterprise, Virginia Housing Development Authority, Virginia Resources Authority, Virginia Racing Commission, Tobacco Indemnification and Community Revitalization Commission, Virginia Agricultural Council, Board of Accountancy, ~~and~~ Virginia Marine Products Board, *Department of Information Technology, Department of Technology Planning, Innovative Technology Authority, Virginia Information Providers Network Authority, Virginia Geographic Information Network Advisory Board, and the Wireless E-911 Services Board.* The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-207.1. *Additional powers relating to technology programs in the Commonwealth.*

*Unless the Governor expressly reserves such power to himself, the Secretary may, with regard to strategy development, planning, and budgeting for technology programs in the Commonwealth:*

1. *Monitor trends and advances in fundamental technologies of interest and importance to the economy of the Commonwealth and direct and approve a stakeholder-driven technology strategy development process that results in a comprehensive and coordinated view of research and development goals for industry, academia, and government in the Commonwealth. This strategy shall be updated biennially and submitted to the Governor, the Speaker of the House of Delegates, and the President Pro Tempore of the Senate.*

2. *Work closely with the appropriate federal research and development agencies and program managers to maximize the participation of Commonwealth industries and universities in these programs consistent with agreed strategy goals.*

3. *Direct the development of plans and programs for strengthening the technology resources of the Commonwealth's high technology industry sectors and for assisting in the strengthening and development of the Commonwealth's Regional Technology Councils.*

4. *Direct the development of plans and programs for improving access to capital for technology-based entrepreneurs.*

§ 2.2-207.2. *Secretary to function as Chief Information Officer; powers and duties.*

A. *The Secretary shall function as the Chief Information Officer (CIO) of the Commonwealth. In addition to his powers and duties as Secretary, the CIO shall have the following general powers:*

1. *Make and enter into all contracts and agreements necessary or incidental to the performance of his duties and execution of his powers, including but not limited to contracts with the United States, other state agencies, institutions of higher education, and political subdivisions of the Commonwealth.*

2. *Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the CIO shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable.*

3. *Prescribe regulations necessary or incidental to the performance of his duties or execution of his powers.*

4. *Exercise such powers and perform such duties as are conferred or imposed upon him by law or required of him by the Governor.*

B. *The CIO shall have the following powers and duties concerning the planning, budgeting, acquiring, using, disposing, managing, and administering of information technology in the Commonwealth:*

1. *Monitor trends and advances in information technology; direct and approve a comprehensive, statewide, 4-year planning process; and plan for the acquisition, management, and use of information technology. The statewide plan shall be updated annually and submitted to the Governor, the Speaker of the House of Delegates, and the President Pro Tempore of the Senate. In developing and updating such plans, the CIO shall consider, at a minimum, the advice and recommendations of the Council on*

Technology Services created pursuant to § 2.2-2651.

2. Require state agencies and institutions of higher education to prepare and submit information technology plans to the CIO. The CIO shall have the authority to approve and recommend amendments to such plans upon review and recommendation by the Department of Technology Planning. All state agencies and institutions of higher education shall maintain current information technology plans that have been approved by the CIO.

3. Direct the formulation and promulgation of policies, standards, specifications, and guidelines for information technology in the Commonwealth, including, but not limited to, those (i) required to support state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies, (ii) concerned with the development of electronic transactions including the use of electronic signatures as provided in § 59.1-496, and (iii) necessary to support an enterprise approach to information technology across the totality of state government, thereby assuring that the citizens and businesses of the Commonwealth receive the greatest possible security, value, and convenience from investments made in technology.

For the purposes of this subdivision, "enterprise" means a unified approach to security, suitability, and maintainability of information technology infrastructures, products, and services throughout state and local government, subject to mission-critical needs.

4. Direct the development of policies and procedures, in consultation with the Department of Planning and Budget, which are integrated into the Commonwealth's strategic planning and performance budgeting processes, and which state agencies and institutions of higher education shall follow in developing information technology plans and technology-related budget requests. Such policies and procedures shall require consideration of the contribution of current and proposed technology expenditures to the support of agency and institution priority functional activities, as well as current and future operating expenses, and shall be utilized by all state agencies and institutions of higher education in preparing budget requests.

5. Review budget requests for information technology from state agencies and institutions of higher education and recommend budget priorities to the Department of Planning and Budget.

6. Direct the development of policies and procedures for review by the Department of Technology Planning of technology procurements, agreements, or contracts for amounts exceeding \$100,000. The Department of Technology Planning shall report monthly to the Secretary on all such reviews. The Secretary may delegate approval of such procurements to the Department of Technology Planning; however, approval of procurements in excess of \$1 million shall not be delegated by the Secretary.

7. Disapprove procurements that, on the recommendation of the Department of Technology Planning, do not conform to the statewide information technology plan or to the individual plans of state agencies or institutions of higher education.

8. Direct the development of policies and procedures for the effective management of technology investments throughout their entire life cycle, including, but not limited to, project definition, procurement, development, implementation, operation, performance evaluation, and enhancement or retirement. Such policies and procedures shall include, at a minimum, the periodic review by the Secretary of the execution of agency and institution of higher education technology projects estimated to cost \$1 million or more and deemed to be mission-critical or of statewide application by the Secretary. The Secretary shall be authorized to direct the modification, suspension, or cessation of any such project which, as the result of a periodic review, has not met the milestones and performance measures agreed to by the Secretary and the sponsoring agency or institution. This shall not supersede the responsibility of a board of visitors for the management and operation of an institution of higher education.

The provisions of this subdivision shall not apply to research projects or research initiatives at institutions of higher education. However, technology investments in research projects or research initiatives at these institutions estimated to cost \$1 million or more of general fund appropriations may be reviewed as provided in this subdivision if the projects are deemed mission-critical by the institution or of statewide application by the Secretary. The Secretaries of Technology and Education, in consultation with the institutions of higher education, shall develop and provide to the institutions of higher education criteria to be used in determining whether projects are mission-critical.

9. Direct the establishment of statewide standards for the efficient exchange of electronic information and technology, including infrastructure, between the public and private sectors in the Commonwealth.

10. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to § 2.2-1703.

11. Undertake or cause to be undertaken a periodic benchmarking analysis of data center and telecommunications resources and services performed at or provided by agencies and institutions.

12. Evaluate the feasibility of outsourcing information technology resources and services and outsource those resources and services that would be beneficial to the Commonwealth.

182 13. Evaluate the needs of agencies in the Commonwealth with regard to (i) a consistent, reliable,  
183 and secure information technology infrastructure, (ii) existing capabilities with regard to building and  
184 supporting that infrastructure, and (iii) recommended approaches to ensure the future development,  
185 maintenance, and financing of an information technology infrastructure befitting the needs of state  
186 agencies and the service level requirements of its citizens.

187 14. Report annually to the Joint Commission on Technology and Science created pursuant to § 30-85  
188 on the use and application of information technology by state agencies and institutions of higher  
189 education to increase economic efficiency, citizen convenience, and public access to state government  
190 and to assist the Commission in its effort to stimulate, encourage, and promote the development of  
191 technology in the Commonwealth and sound public policies related thereto.

192 C. As used in this chapter, "information technology" includes telecommunications, automated data  
193 processing, databases, word processing, the Internet, management information systems, and related  
194 information, equipment, goods, and services. It is in the interest of the Commonwealth that its public  
195 institutions of higher education in Virginia be in the forefront of developments in technology. Therefore  
196 the provisions of this article shall not be construed to hamper the pursuit of the missions of the  
197 institutions in instruction and research.

198 § 2.2-207.3. Security of government databases.

199 A. To ensure the security of state government databases and data communications from unauthorized  
200 uses, intrusions or other security threats, the Secretary of Commerce and Technology shall direct the  
201 development of policies, procedures, and standards for assessing security risks, determining the  
202 appropriate security measures and performing security audits of government databases and data  
203 communications. At a minimum, these policies, procedures, and standards shall address the scope of  
204 security audits and which public bodies are authorized to conduct security audits. In developing and  
205 updating such policies, procedures, and standards, the Secretary shall consider, at a minimum, the  
206 advice and recommendations of the Council on Technology Services created pursuant to § 2.2-2651.

207 B. The Secretary shall designate a government entity to oversee, plan and coordinate the conduct of  
208 periodic security audits of all executive branch agencies and institutions of higher education regarding  
209 the protection of government databases and data communications.

210 1. Security audits may include, but are not limited to, on-site audits as well as reviews of all written  
211 security procedures.

212 2. The designated entity may contract with a private firm or firms that specialize in conducting such  
213 audits subject to approval of the Secretary.

214 C. All public bodies subject to such audits as required by this section shall fully cooperate with the  
215 entity designated to perform such audits.

216 D. The provisions of this section shall not infringe upon responsibilities assigned to the Comptroller,  
217 the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by other  
218 provisions of the Code of Virginia.

219 § 2.2-207.4. CIO advisory committees.

220 The CIO may form such advisory committees as he deems necessary, convenient, or desirable to  
221 advise and assist him in exercising the powers and performing the duties conferred by this chapter. The  
222 disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government Conflict of  
223 Interests Act shall apply to members of the advisory committees. Members of advisory committees shall  
224 be compensated for the performance of their duties subject to the provisions of § 2.2-2813.

225 § 2.2-210. Annual legislative report.

226 Within ~~sixty~~60 days prior to the beginning of each regular legislative session, the Secretary of  
227 Education and the Secretary of Commerce and ~~Trade~~ Technology shall jointly present a report to the  
228 General Assembly summarizing private sector and education partnership programs and recommendations  
229 to promote efficiency and growth in business and education partnerships.

230 § 2.2-603. Authority of agency directors.

231 A. Notwithstanding any provision of law to the contrary, the agency director of each agency in the  
232 executive branch of state government shall have the power and duty to (i) supervise and manage the  
233 department or agency and (ii) prepare, approve, and submit to the Governor all requests for  
234 appropriations and to be responsible for all expenditures pursuant to appropriations.

235 B. The director of each agency in the executive branch of state government, except those that by law  
236 are appointed by their respective boards, shall not proscribe any agency employee from discussing the  
237 functions and policies of the agency, without prior approval from his supervisor or superior, with any  
238 person unless the information to be discussed is protected from disclosure by the Virginia Freedom of  
239 Information Act (§ 2.2-3700 et seq.) or any other provision of state or federal law.

240 C. Subsection A shall not be construed to restrict any other specific or general powers and duties of  
241 executive branch boards granted by law.

242 D. This section shall not apply to those agency directors that are appointed by their respective boards  
243 or by the Board of Education. Directors appointed in this manner shall have the powers and duties

assigned by law or by the board.

E. In addition to the requirements of subsection C of § 2.2-619, the director of each agency in any branch of state government shall, at the end of each fiscal year, report to (i) the Secretary of Finance and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance a listing and general description of any federal contract, grant, or money in excess of \$1,000,000 for which the agency was eligible, whether or not the agency applied for, accepted, and received such contract, grant, or money, and, if not, the reasons therefore, and a listing and cost of any federal mandate or regulation affecting the agency, and the dollar amount and corresponding percentage of the agency's total annual budget that was supplied by funds from the federal government and (ii) the Chairmen of the House Committees on Appropriations and Finance, and the Senate Committee on Finance any amounts owed to the agency from any source that are more than six months delinquent, the length of such delinquencies, and the total of all such delinquent amounts in each six-month interval. Clause (i) shall not be required of public institutions of higher education.

F. On or before December 1, 1999, the director of every department in the executive branch of state government shall appoint an agency information officer from among the department's employees to (i) ensure the coordinated planning, practical acquisition, effective development, and efficient use of information technology resources and communications services to meet the department's needs and (ii) serve as the department's liaison to the Secretary of *Commerce and Technology*.

§ 2.2-1400. Creation of Department of Minority Business Enterprise; appointment of Director; offices; personnel.

A. There is created within the Office of the Governor a Department of Minority Business Enterprise (the "Department"), which shall be headed by a Director appointed by the Governor to serve at his pleasure. The Director shall also serve as a special assistant to the Governor for minority enterprise.

B. The Director of the Department shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor.

C. The Department shall have its main office in Richmond and may have branch offices as may be necessary, as determined by the Director subject to the approval of the Secretary of Commerce and ~~Trade~~ *Technology*.

§ 2.2-1701. Additional powers of Department.

A. The Department shall have the following additional powers which, with the approval of the Director, may be exercised by a division of the Department with respect to matters assigned to that division:

1. Prescribe regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter.

2. Monitor trends and advances in information technology; develop a comprehensive, statewide, ~~four~~ four-year planning process; and plan for the acquisition, management, and use of information technology.

3. Plan and forecast future needs for information technology and conduct studies and surveys of organizational structures and best management practices of information technology systems and procedures.

4. Assist the Secretary of *Commerce and Technology* in the development of statewide policies affecting technology at all levels of government, in the business sector, and among the general citizenry.

5. Provide agencies and institutions of higher education with information and guidelines in the development of information management plans and the preparation of budget requests for information technology that are consistent with the policies and procedures developed by the Secretary of *Commerce and Technology*, in consultation with the Department of Planning and Budget, for integrating such plans and requests into the Commonwealth's strategic planning and performance budgeting processes.

6. Review information management plans submitted by agencies and institutions of higher education to the Secretary of *Commerce and Technology*. The Department shall recommend to the Secretary of *Commerce and Technology* the approval of such plans and any amendments thereto.

7. Monitor implementation of information management plans and periodically report its findings to the Secretary of *Commerce and Technology*.

8. Develop and adopt policies, standards, and guidelines for managing information technology in the Commonwealth.

9. Review agency and institution budget requests for information technology and recommend to the Secretary of *Commerce and Technology* budget request priorities for consideration by the Department of Planning and Budget.

10. Direct the compilation and maintenance of an inventory of information technology, including, but not limited to, personnel, facilities, equipment, goods, and contracts for services.

11. Develop an approval process to ensure that all information technology procurements conform to

the statewide information management plan and the information management plans of agencies and institutions of higher education.

12. Develop statewide standards for the efficient exchange of electronic information and technology, including infrastructure, between the public and private sectors in the Commonwealth.

§ 2.2-1704. Annual plan; allowable uses of Fund.

The Secretary of *Commerce and Technology*, with advice from the Council on Technology Services and the Department of Technology Planning, shall prepare a plan that identifies the projects in which the Virginia Technology Infrastructure Fund will participate. The plan shall be consistent with the statewide plan developed by the Secretary and shall consider the use of existing resources and long-term operation and maintenance costs. Projects having the greatest benefit to state government as a whole shall have the highest priority in the plan.

§ 2.2-2203. Board of directors; members and officers; Executive Director.

The Authority shall be governed by a board of directors consisting of ~~twelve~~ 11 members, ~~four~~ 3 of whom shall be the President of the Center for Innovative Technology, the President of Old Dominion University, and the Secretary of Commerce and ~~Trade~~Technology, and the Secretary of Technology, who shall serve as members of the Board for terms coincident with their terms of office. The remaining ~~eight~~ 8 members shall be appointed by the Governor as follows: ~~three~~ 3 members representing the commercial space flight industry; ~~two~~ 2 members representing the telecommunications industry; ~~one~~ 1 member representing the County of Accomack, ~~one~~ 1 member representing the County of Northampton, and ~~one~~ 1 at-large member. Of the members appointed by the Governor, ~~two~~ 2 shall be appointed for terms of ~~one~~ 1 year, ~~three~~ 3 for terms of ~~two~~ 2 years, and ~~three~~ 3 for terms of ~~three~~ 3 years, from the effective date of their appointment. Thereafter, the members of the Board shall be appointed for terms of ~~three~~ 3 years. All members of the Board appointed by the Governor shall be confirmed by each house of the General Assembly. Vacancies in the membership of the Board shall be filled by appointment for the unexpired portion of the term. Members of the Board shall be subject to removal from office in like manner as are state, county, town and district officers under the provisions of §§ 24.2-230 through 24.2-238. Immediately after appointment, the members of the Board shall enter upon the performance of their duties.

The Board shall annually elect ~~one~~ 1 of its members as chairman and another as vice-chairman, a secretary, and a treasurer who need not be a member of the Board. The Board may also elect other subordinate officers, who need not be members of the Board, as it deems proper. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Seven members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The members of the Board shall be entitled to reimbursement for their reasonable travel, meal and lodging expenses incurred in attending the meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers signed by the chairman of the Board or by such other person designated by the Board for this purpose.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board. The Executive Director and employees of the Authority shall be compensated in the manner provided by the Board and shall not be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) of this title.

§ 2.2-2220. Board of directors; members; President.

A. The Authority shall be governed by a board of directors consisting of ~~sixteen~~ 15 members appointed by the Governor, ~~two~~ 2 of whom shall be the presidents of the major research universities and ~~one~~ 1 of whom shall represent the other public colleges or universities in Virginia. After the original appointments, all appointments of presidents shall be for terms of ~~five~~ 5 years, except that appointments to fill vacancies shall be for the unexpired terms. No president shall be eligible to serve for more than ~~two~~ 2 successive ~~five~~ 5-year terms; however, after the expiration of a term of ~~four~~ 4 years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, ~~two~~ 2 additional terms may be served by such member if appointed thereto. The Secretary of Education, the Secretary of Commerce and ~~Trade~~Technology, the Secretary of Technology, and the Director of the State Council of Higher Education shall serve on the Board for terms coincident with their terms of office. The Governor shall appoint the ~~nine~~ 9 other members of the Board who shall be nominated by established industry groups and technology councils within the Commonwealth. These appointees shall include representatives of a variety of businesses, industries and corporations of different types, sizes, locations and stages of development. All members of the Board appointed by the Governor shall be confirmed by each house of the General Assembly. After the original appointments, the members of the Board shall be appointed for terms of ~~four~~ 4 years. Vacancies in the membership of the Board shall be filled by

367 appointment of the Governor for the unexpired portion of the term. No member of the Board shall be  
 368 eligible to serve for more than ~~two~~ 2 successive terms; however, after the expiration of a term of ~~four~~ 4  
 369 years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, ~~two~~  
 370 2 additional terms may be served by such member if appointed thereto. Members of the Board shall be  
 371 subject to removal from office in like manner as are state, county, town and district officers under the  
 372 provisions of §§ 24.2-230 through 24.2-238. Immediately after appointment, the members of the Board  
 373 shall enter upon the performance of their duties.

374 The Board shall annually elect from among its members a chairman and a vice-chairman. The Board  
 375 shall also elect annually a secretary, who need not be a member of the Board, and may also elect such  
 376 other subordinate officers who need not be members of the Board, as it deems proper. The chairman, or  
 377 in his absence, the vice-chairman, shall preside at all meetings of the Board. In the absence of both the  
 378 chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such  
 379 meetings.

380 The Board shall employ a President of the Authority, who shall serve at the pleasure of the Board, to  
 381 direct the day-to-day operations and activities of the Authority and carry out such of the powers and  
 382 duties conferred upon him by the Board. The President and employees of the Authority shall be  
 383 compensated in the manner provided by the Board and shall not be subject to the provisions of the  
 384 Virginia Personnel Act (§ 2.2-2900 et seq.) of this title.

385 B. The Board shall establish a ~~twenty-two~~ 22 member technical advisory committee with  
 386 representatives recommended by technology councils, industry and business associations, and college and  
 387 university presidents. Ten members shall have knowledge, skills and expertise in the needs of industry,  
 388 and ~~ten~~ 10 shall have knowledge, skills and expertise in specific technology areas. The chief technical  
 389 officer of the Center for Innovative Technology and the Director of the Department of Minority  
 390 Business Enterprise shall also serve on this committee.

391 § 2.2-2235. Board of directors; members and officers; Executive Director.

392 The Authority shall be governed by board of directors consisting of the Secretary of Commerce and  
 393 ~~Trade Technology~~, the Secretary of Finance, and ~~thirteen~~ 13 members, ~~one~~ 1 from each congressional  
 394 district in the Commonwealth and ~~two~~ 2 citizens at large, appointed by the Governor, subject to  
 395 confirmation by the General Assembly. Four of the ~~thirteen~~ 13 directors initially appointed by the  
 396 Governor shall be appointed for terms of ~~two~~ 2 and one-half years, ~~four~~ 4 for terms of ~~four~~ 4 and one-half  
 397 years, and ~~five~~ 5 for terms of ~~six~~ 6 and one-half years, from the effective date of their appointment; and  
 398 thereafter the terms of members of the Board shall be ~~six~~ 6 years. No member appointed by the  
 399 Governor shall be eligible to serve more than ~~two~~ 2 terms; however, after the expiration of the term of a  
 400 member appointed to serve ~~three~~ 3 years or less, ~~two~~ 2 additional terms may be served if appointed  
 401 thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed by the  
 402 Governor to fill a vacancy may be appointed to serve two additional terms. Members of the Board shall  
 403 receive their expenses and shall be compensated at the rate provided in § 2.2-2104 for each day spent on  
 404 the business of the Board.

405 The Board shall elect from its membership a chairman and a vice-chairman, and shall also elect a  
 406 secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate  
 407 officers, who need not be members of the Board. The Board may also form committees and advisory  
 408 councils, which may include representatives who are not members of the Board, to undertake more  
 409 extensive study and discussion of the issues before the Board.

410 A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and  
 411 no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all  
 412 duties of the Authority.

413 The Board shall appoint the chief executive officer of the Authority, who shall not be a member of  
 414 the Board, who shall be known as the Executive Director and who shall serve at the pleasure of the  
 415 Board and carry out such of the powers and duties conferred upon him by the Board.

416 § 2.2-2242. Forms of accounts and records; audit; annual report.

417 The accounts and records of the Authority showing the receipt and disbursement of funds from  
 418 whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor  
 419 of Public Accounts or his legally authorized representatives, shall annually examine the accounts and  
 420 books of the Authority.

421 The Authority shall submit an annual report to the Governor and General Assembly on or before  
 422 November 1 of each year. Such report shall contain the audited annual financial statements of the  
 423 Authority for the year ending the previous June 30. The annual report shall be distributed in accordance  
 424 with the provisions of § 2.2-1127.

425 The Authority shall submit a detailed annual operational plan and budget to the Secretary of  
 426 Commerce and ~~Trade Technology~~ and the Director of the Department of Planning and Budget by  
 427 November 1. Notwithstanding other provisions of this article, the form and content of the operating plan

428 and budget shall be determined by the Director of the Department of Planning and Budget and shall  
429 include information on salaries, expenditures, indebtedness and other information as determined by the  
430 Director of the Department of Planning and Budget.

431 § 2.2-2249. Board of directors; members and officers; executive director.

432 The Authority shall be governed by a board of directors consisting of ~~eleven 11~~ members, ~~two 2~~ of  
433 whom shall be the Secretary of *Commerce and* Technology and the Director of the Department of  
434 Technology Planning, both of whom shall serve for terms coincident with their terms of office. The  
435 remaining ~~nine 9~~ members shall be appointed by the Governor as follows: ~~three 3~~ members who are  
436 chief executive officers of agencies in the executive branch; ~~two 2~~ members from a list submitted by the  
437 Virginia State Bar; ~~three 3~~ members from user associations of a statewide character, except that no ~~two~~  
438 2 shall represent the same user association; and ~~one 1~~ member from a list submitted by the Librarian of  
439 Virginia. Three members appointed by the Governor shall be appointed for terms of ~~one 1~~ year, ~~three 3~~  
440 for terms of ~~two 2~~ years, and ~~three 3~~ for terms of ~~three 3~~ years, effective from their dates of  
441 appointment. Thereafter, board members shall be appointed for terms of ~~three 3~~ years. All board  
442 members appointed by the Governor shall be confirmed by each house of the General Assembly.  
443 Vacancies in membership shall be filled by appointment for the unexpired portion of the term. Board  
444 members shall be subject to removal from office for cause.

445 The Board shall annually elect ~~one 1~~ of its members as chairman, ~~one 1~~ as vice-chairman, and  
446 another as secretary. The Board may also elect other subordinate officers, who need not be members of  
447 the Board. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the board.  
448 In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore,  
449 who shall preside at such meetings. Six members shall constitute a quorum for the transaction of the  
450 Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise  
451 all the rights and perform all the duties of the Authority.

452 Pursuant to § 2.2-2823, Board members shall be entitled to reimbursement for their reasonable travel,  
453 meal and lodging expenses incurred in attending board meetings or while otherwise engaged in  
454 discharging their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers  
455 signed by the chairman or by such other person as the Board designates for this purpose.

456 The Board shall employ an executive director, who shall serve at the pleasure of the Board, to direct  
457 the functions of the Authority and carry out the powers and duties conferred upon him by the Board.  
458 The executive director and employees of the Authority shall be compensated in the manner provided by  
459 the Board.

460 § 2.2-2316. Board of directors; members and officers.

461 A. All powers, rights and duties conferred by this article or other provisions of law upon the  
462 Authority shall be exercised by a board of directors consisting of the Secretary of Commerce and  
463 ~~Trade~~Technology, the Secretary of Finance, the Secretary of Natural Resources, and ~~twelve 12~~ members  
464 appointed by the Governor, subject to confirmation by the General Assembly. The members of the  
465 Board appointed by the Governor shall serve terms of ~~six 6~~ years each, except that the original terms of  
466 ~~four 4~~ members appointed by the Governor shall end on June 30, 2000, the original term of ~~four 4~~  
467 members appointed by the Governor shall end on June 30, 2001, and the original terms of ~~three 3~~  
468 members appointed by the Governor shall end on June 30, 2002, all as designated by the Governor. Any  
469 appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose  
470 death, resignation or removal created the vacancy. All members of the Board shall be residents of the  
471 Commonwealth. Members may be appointed to successive terms on the Board of Directors. The  
472 Governor shall make appointments in such a manner as to ensure the widest possible geographical  
473 representation of all parts of the Commonwealth.

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

478 B. The Governor shall designate one member of the Board as chairman. The Board may elect one  
479 member as vice-chairman, who shall exercise the powers of chairman in the absence of the chairman or  
480 as directed by the chairman. The Secretary of Commerce and ~~Trade~~Technology, the Secretary of  
481 Finance, the Secretary of Natural Resources shall not be eligible to serve as chairman or vice-chairman.

482 C. Meetings of the Board shall be held at the call of the chairman or of any seven members. Eight  
483 members of the Board shall constitute a quorum for the transaction of the business of the Authority. An  
484 act of the majority of the members of the Board present at any regular or special meeting at which a  
485 quorum is present shall be an act of the Board of Directors. No vacancy on the Board shall impair the  
486 right of the majority of a quorum of the members of the Board to exercise all the rights and perform all  
487 the duties of the Authority.

488 D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth  
489 shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of



acceptance of membership on the Board or by providing service to the Authority.

§ 2.2-2440. (Effective until June 30, 2006) Definitions.

As used in this article:

"Affiliate" of a specific company means a company that is directly or indirectly controlled by, or is under common control with, the company specified.

"Decision by the United States government" means a law, regulation, or administrative action, including but not limited to the issuance of a United States Navy or joint requirements document or a Defense Acquisition Board decision.

"Fiscal year" means the twelve - month period beginning July 1 and ending June 30.

"Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center" means a shipbuilding facility which, pursuant to a Memorandum of Agreement with the Secretary, is to be initially owned by a local industrial development authority in Virginia and built and operated by a Qualified Shipbuilder for use by the shipbuilding industry, primarily (i) to perform testing and integration projects, including research and development in conjunction with Virginia universities concerning those projects, and other projects relating to the design and integration of navigation, communication, weapon, and other ship systems for aircraft carriers and (ii) to provide education, training, and retraining of workers in the shipbuilding industry.

"Next aircraft carrier" means the aircraft carrier following the already authorized aircraft carrier designated CVN-77, such next carrier currently being designated by the United States Navy as CV(X).

"Qualified investment" means any expenditure capitalized or to be capitalized for federal income tax purposes that is related to the construction, expansion, improvement or modernization of a shipbuilding facility in Virginia. Except for salaries that are capitalized as part of the cost of a shipbuilding facility, "qualified investment" shall not include the salaries or other compensation paid to employees of a Qualified Shipbuilder or its affiliates.

"Qualified Shipbuilder" means a corporation that (i) is primarily engaged in designing, constructing, overhauling, modernizing, and repairing ships at its facilities in Virginia; (ii) employs more than 10,000 persons at its shipbuilding facilities in Virginia; and (iii) makes a qualified investment of at least \$25 million in the fiscal year preceding each fiscal year in which any grant provided by this act is awarded.

"Secretary" means the Secretary of Commerce and ~~Trade~~ *Technology* or his designee.

"Shipbuilding facility" means any property, including land, buildings and other improvements to real estate, tangible personal property, machinery and tools, ships, boats and parts thereof, docks and dry docks, employed or designed to be employed in the shipbuilding industry.

"Shipbuilding industry" includes (i) businesses engaged in either designing, building, overhauling, modernizing and repairing ships in Virginia and (ii) other persons engaged in research, design, manufacturing or other activities in Virginia that are directly related to, or that provide necessary support for, such businesses.

§ 2.2-2445. (Effective until June 30, 2006) Administration of grant program; exemption from Freedom of Information Act.

The Virginia Economic Development Partnership shall be authorized to create a nonstock nonprofit corporation to receive the grant funds and oversee the administration of the grant program provided for by § 2.2-2444. The Board of Directors of the corporation shall be appointed by the Governor and shall consist of ~~nine~~ 9 members as follows: (i) the Secretary of Commerce and ~~Trade~~ *Technology*; (ii) the Secretary of Finance; (iii) ~~one~~ 1 member representing the shipbuilding industry; (iv) ~~one~~ 1 member representing industries that supply critical systems components to aircraft carriers; (v) ~~two~~ 2 representatives of Virginia's institutions of higher education; (vi) ~~two~~ 2 representatives to be designated by the Qualified Shipbuilder; and (vii) ~~one~~ 1 citizen member who shall have had substantial U.S. Navy experience aboard an aircraft carrier. The Board of Directors will oversee the utilization of state funding for training and research and development and monitor the general implementation of the Memorandum of Agreement as it relates to operations grant funding until all such funds have been expended, at which time such corporation shall cease to exist. The records, meetings and activities of the corporation, its Board members, and employees that are deemed confidential, proprietary, or are classified by the federal government shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The members of the Board of Directors shall also serve as the members of the Herbert H. Bateman Virginia Advanced Shipbuilding and Carrier Integration Center Board.

§ 2.2-2600. Advisory Council on the Virginia Business-Education Partnership Program; membership; terms; chairman.

A. The Advisory Council on the Virginia Business-Education Partnership Program (the "Council") is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to assist the Secretary of Education in implementing the Virginia Business-Education Partnership Program and in facilitating the development of strategic partnerships between the public and private sectors to enhance public education and workforce training.

551 B. The Council shall be composed of ~~twenty~~ 20 members as follows: the Secretary of Education or  
 552 his designee, the Secretary of Commerce and ~~Trade Technology~~ or his designee, and ~~eighteen~~ 18  
 553 members appointed by the Governor to include ~~one~~ 1 representative each from the Department of  
 554 Education and the Office of Volunteerism; ~~one~~ 1 member each from the House of Delegates and the  
 555 Senate; ~~one~~ 1 representative of the Virginia Chamber of Commerce; and ~~thirteen~~ 13 members who  
 556 represent business, industry, education, and employees, including ~~one~~ 1 community college president,  
 557 ~~one~~ 1 president of a four-year institution of higher education, ~~one~~ 1 school superintendent, ~~one~~ 1 public  
 558 school teacher, ~~one~~ 1 school board member, and at least ~~five~~ 5 representatives of private business and  
 559 industry. Interested organizations may submit nominations for membership to the Governor. Members  
 560 appointed by the Governor shall represent the various geographical areas of the Commonwealth.

561 C. Initial appointments by the Governor shall be as follows: ~~nine~~ 9 members for ~~two~~ 2-year terms and  
 562 ~~nine~~ 9 members for ~~one~~ 1-year terms. Thereafter, all appointments shall be for terms of ~~two~~ 2 years,  
 563 except that appointments to fill vacancies shall be for the unexpired terms. No appointed member shall  
 564 be eligible to serve for or during more than ~~four~~ 4 successive ~~two~~ 2-year terms, but after the expiration  
 565 of a term of ~~one~~ 1 year or less, or after the expiration of the remainder of a term to which appointed to  
 566 fill a vacancy, ~~four~~ 4 additional ~~two~~ 2-year terms may be served by such member if appointed thereto.

567 D. The Governor shall select a chairman and a vice-chairman from among Council members. A  
 568 majority of the members of the Council shall constitute a quorum.

569 § 2.2-2640. Interagency Coordinating Council on Housing for the Disabled; membership; chairman.

570 A. The Interagency Coordinating Council on Housing for the Disabled (the "Council") is established  
 571 as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government.  
 572 The Council shall consist of one representative, to be appointed by the agency executive, from each of  
 573 the following: Department of Professional and Occupational Regulation, Department of Housing and  
 574 Community Development, Virginia Housing Development Authority, Virginia Office for Protection and  
 575 Advocacy, Department for the Aging, Department for the Deaf and Hard-of-Hearing, Department of  
 576 Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative  
 577 Services, Department of Social Services and Department for the Blind and Vision Impaired. The  
 578 Secretary of Commerce and ~~Trade Technology~~ and Secretary of Health and Human Resources shall serve  
 579 ex officio on the Council. The appropriate agency executive may appoint additional members as  
 580 required.

581 B. The Council shall annually elect a chairman. Each agency shall contribute a pro rata share of the  
 582 required support services.

583 § 2.2-2651. Council on Technology Services; purpose; membership; chairman.

584 A. The Council on Technology Services (the "COTS") is established as an advisory council, within  
 585 the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council  
 586 shall be to advise and assist the Secretary of *Commerce and Technology* in exercising the powers and  
 587 performing the duties conferred by Article 9 (~~§ 2.2-225 et seq.~~) 3 (*§ 2.2-204 et seq.*) of Chapter 2 of this  
 588 title.

589 B. The COTS shall consist of no more than ~~twenty-six~~ 26 nor fewer than ~~twenty~~ 20 members, to be  
 590 appointed by the Governor upon recommendation of the Secretary of *Commerce and Technology*, as  
 591 follows: at least ~~one~~ 1 representative from the Secretariats of Administration, Commerce and  
 592 ~~Trade Technology~~, Education, Finance, Health and Human Resources, Natural Resources, Public Safety,  
 593 and Transportation; at least ~~four~~ 4 representatives from public institutions of higher education; at least  
 594 ~~one~~ 1 representative from an independent agency of state government; and at least ~~three~~ 3  
 595 representatives from public bodies other than the Commonwealth selected from a list of names submitted  
 596 by the Virginia Local Government Information Technology Executives. For terms coincident with their  
 597 terms of office, the following shall serve as ex officio, voting members of the COTS: Director of the  
 598 Department of Information Technology, Director of the Department of Technology Planning, Director of  
 599 Information Systems of the Supreme Court of Virginia, Director of the Division of Legislative  
 600 Automated Systems, and Executive Director of the Virginia Information Providers Network Authority.

601 In making appointments, the Governor shall include not only information systems and  
 602 telecommunications professionals, but also managers and directors in agencies who are responsible for  
 603 business and strategic planning. Members of the Council shall serve at the pleasure of the Governor.  
 604 Members shall be appointed for a term of ~~two~~ 2 years and shall be eligible for reappointment.

605 C. The Secretary of *Commerce and Technology* shall be the chairman of the COTS. The COTS shall  
 606 meet quarterly and at such other times as may be called by the chairman.

607 § 2.2-2669. Virginia Workforce Council; purpose; membership; terms; chairman; compensation; staff.

608 A. The Virginia Workforce Council (the "Council") is established as a policy council, within the  
 609 meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be  
 610 to assist the Governor in meeting workforce training needs in the Commonwealth.

611 B. The Council shall consist of the following ~~forty-three~~ 42 members: the Governor; the Secretaries  
 612 of Commerce and ~~Trade Technology~~, Education, and Health and Human Resources; and ~~Technology~~; the

Director of the Department of Business Assistance; the Chancellor of the Virginia Community College System; the Director of the State Council of Higher Education; the President of the Center for Innovative Technology; the Executive Director of the Virginia Economic Development Partnership; the Commissioner of the Virginia Employment Commission; the president of the Virginia AFL-CIO; and one other labor representative, appointed by the Governor.

The Governor shall also appoint ~~twenty-three~~ 23 members representing the business community, to include the presidents of the Virginia Chamber of Commerce and the Virginia Manufacturer's Association; ~~one~~ 1 representative of private nonprofit institutions; ~~one~~ 1 representative of proprietary schools; ~~one~~ 1 representative of health care employers; and the remaining ~~eighteen~~ 18 members who are business owners, chief executive officers, chief operating officers, or other business executives or employers with optimum policy-making or hiring authority and who shall represent diverse regions of the state, to include urban, suburban, and rural areas; and members of the local workforce investment boards, representing businesses with employment opportunities that reflect the employment opportunities of the state, and who are appointed from among individuals nominated by state business organizations and business trade associations.

The Governor shall also appoint ~~one~~ 1 mayor, ~~one~~ 1 chairperson of a county board of supervisors, and ~~one~~ 1 representative of a community-based organization delivering workforce activities.

The Council shall also include ~~two~~ 2 members of the House of Delegates to be appointed by the Speaker of the House; and ~~two~~ 2 members of the Senate to be appointed by the Senate Committee on Privileges and Elections.

C. Initially, of the ~~twenty-three~~ 23 members who are serving as representatives of business and industry, other than the presidents of the Virginia Chamber of Commerce and the Virginia Manufacturer's Association, ~~seven~~ 7 shall serve ~~four~~ 4-year terms; ~~six~~ 6 shall serve ~~three~~ 3-year terms; and ~~six~~ 6 shall serve ~~two~~ 2-year terms. Thereafter, all appointments shall be for ~~four~~ 4-year terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. No appointed member shall be eligible to serve for more than ~~two~~ 2 successive ~~four~~ 4-year terms, but after the expiration of the remainder of a term to which a member was appointed to fill a vacancy, ~~two~~ 2 additional ~~four~~ 4-year terms may be served by such member if appointed. Legislative members shall serve terms coincident with their terms of office.

D. The Governor shall select a chairman and vice-chairman from among the ~~twenty-three~~ 23 business representatives appointed in accordance with subsection B. The Council shall meet regularly.

E. Appointed members of the Council shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

F. The Virginia Employment Commission and the Virginia Community College System shall serve as staff to the Council as directed by the Secretary of Commerce and ~~Trade~~ Technology. The Virginia Employment Commission shall act as fiscal agent for the Council and the WIA.

§ 2.2-2670. Powers and duties of the Council; Virginia Workforce Development Program created.

A. The Council shall undertake the following to implement and foster workforce training, exclusive of the career and technical education programs provided through and administered by the public school system:

1. Identify current and emerging workforce needs of the business community;
2. Assess potential markets for increasing the number of workers available to business and industry;
3. Forecast and identify training requirements for the new workforce;
4. Create strategies that will match trained workers with available jobs;
5. Certify noncredit courses and programs of training, exclusive of apprenticeship programs and federally sponsored programs conducted under Public Law 97-300, as appropriate offered by public, private, and proprietary institutions and responding to the needs of business and industry in the Commonwealth;
6. Make alterations from time to time in such approved programs;
7. With the assistance of regional workforce centers, seek to identify other specific and existing workforce needs in sectors of the economy, including public education, which have high potential for sustained demand or growth;
8. Meet with representatives of each regional workforce center at least annually to assess and discuss subdivisions 1 through 4 within their service region;
9. Establish the procedures, criteria and performance measures for the Workforce Development Training Fund as established pursuant to Article 4 (§ 60.2-318 et seq.) of Chapter 3 of Title 60.2;
10. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 4, 7 and 9; and
11. Perform any act or function in accordance with the purposes of this article.

B. The Council shall establish at least two committees as follows: one committee to accomplish the aims of the WIA and one committee to focus on high-technology workforce training needs.

674 C. The Secretary of Commerce and ~~Trade~~ *Technology* and the Council shall assist the Governor in  
675 complying with the provisions of the federal Workforce Investment Act (P.L. 105-220), hereinafter  
676 referred to as "the WIA," including the creation of Virginia's Workforce Development Program.

677 D. The Council shall assist the Governor in the following areas with respect to workforce  
678 development: development of the WIA State Plan; development and continuous improvement of a  
679 statewide system of activities that are funded under the WIA or carried out as a one-stop delivery  
680 system; development of linkages to ensure coordination and nonduplication among programs and  
681 activities; review of local plans; commenting at least once annually on the measures taken pursuant to  
682 §§ 121(a) (1) (D) (i) and 122(c) (16) and (c) (21) of the Carl D. Perkins Vocational and Technical  
683 Education Act of 1998 (20 U.S.C. § 2301 et seq.); designation of local areas; development of allocation  
684 formulas; development and continuous improvement of comprehensive state performance measures;  
685 preparation of the annual report to the U.S. Secretary of Labor; development of a statewide employment  
686 statistics system; and development of incentive grant applications.

687 The Council shall share information regarding its meetings and activities with the public.

688 E. Each local workforce investment board shall develop and submit a local plan to the Governor;  
689 designate or certify one-stop operators; identify eligible providers of youth activities; identify eligible  
690 providers of intensive services if unavailable at one-stop; develop a budget; conduct local program  
691 oversight in partnership with its local chief elected official; negotiate local performance measures; assist  
692 in developing statewide employment statistics; coordinate workforce investment activities with economic  
693 development strategies and develop linkages; develop and enter into memoranda of understanding with  
694 one-stop partners; and promote participation by the private sector.

695 Each local workforce investment board shall share information regarding its meetings and activities  
696 with the public.

697 F. Each chief local elected official shall consult with the Governor regarding designation of local  
698 workforce investment areas; appoint members to the local board in accordance with state criteria; serve  
699 as the local grant recipient unless another entity is designated in the local plan; negotiate local  
700 performance measures with the Governor; and collaborate with the local workforce investment board on  
701 local plans and program oversight.

702 G. The Virginia Secretary of Commerce and ~~Trade~~ *Technology*, and at his direction, the Virginia  
703 Employment Commission, shall be responsible for the coordination of the Virginia Workforce  
704 Development Program and the implementation of the WIA.

705 § 2.2-3503. Procurement requirements.

706 A. The technology access clause specified in clause (iii) of § 2.2-3502 shall be developed by the  
707 Secretary of *Commerce and Technology* and shall require compliance with the nonvisual access  
708 standards established in subsection B of this section. The clause shall be included in all future contracts  
709 for the procurement of information technology by, or for the use of, entities covered by this chapter on  
710 or after the effective date of this chapter.

711 B. At a minimum, the nonvisual access standards shall include the following: (i) the effective,  
712 interactive control and use of the technology (including the operating system), applications programs,  
713 and format of the data presented, shall be readily achievable by nonvisual means; (ii) the technology  
714 equipped for nonvisual access shall be compatible with information technology used by other individuals  
715 with whom the blind or visually impaired individual interacts; (iii) nonvisual access technology shall be  
716 integrated into networks used to share communications among employees, program participants, and the  
717 public; and (iv) the technology for nonvisual access shall have the capability of providing equivalent  
718 access by nonvisual means to telecommunications or other interconnected network services used by  
719 persons who are not blind or visually impaired. A covered entity may stipulate additional specifications  
720 in any procurement.

721 Compliance with the nonvisual access standards shall not be required if the head of a covered entity  
722 determines that (i) the information technology is not available with nonvisual access because the  
723 essential elements of the information technology are visual and (ii) nonvisual equivalence is not  
724 available.

725 § 2.2-3504. Implementation.

726 A. The head of any covered entity may, with respect to nonvisual access software or peripheral  
727 devices, approve the exclusion of the technology access clause only to the extent that the cost of the  
728 software or devices for the covered entity would increase the total cost of the procurement by more than  
729 ~~five~~ 5 percent. All exclusions of the technology access clause from any contract shall be reported  
730 annually to the Secretary of *Commerce and Technology*.

731 B. The acquisition and installation of hardware, software, or peripheral devices used for nonvisual  
732 access when the information technology is being used exclusively by individuals who are not blind or  
733 visually impaired shall not be required.

734 C. Notwithstanding the provisions of subsection B, the applications programs and underlying  
735 operating systems (including the format of the data) used for the manipulation and presentation of

information shall permit the installation and effective use of nonvisual access software and peripheral devices.

§ 2.2-3803. Administration of systems including personal information; Internet privacy policy; exception for state retirement systems.

A. Any agency maintaining an information system that includes personal information shall:

1. Collect, maintain, use, and disseminate only that personal information permitted or required by law to be so collected, maintained, used, or disseminated, or necessary to accomplish a proper purpose of the agency;

2. Collect information to the greatest extent feasible from the data subject directly;

3. Establish categories for maintaining personal information to operate in conjunction with confidentiality requirements and access controls;

4. Maintain information in the system with accuracy, completeness, timeliness, and pertinence as necessary to ensure fairness in determinations relating to a data subject;

5. Make no dissemination to another system without (i) specifying requirements for security and usage including limitations on access thereto, and (ii) receiving reasonable assurances that those requirements and limitations will be observed. This subdivision shall not apply, however, to a dissemination made by an agency to an agency in another state, district or territory of the United States where the personal information is requested by the agency of such other state, district or territory in connection with the application of the data subject therein for a service, privilege or right under the laws thereof, nor shall this apply to information transmitted to family advocacy representatives of the United States Armed Forces in accordance with subsection N of § 63.2-1503;

6. Maintain a list of all persons or organizations having regular access to personal information in the information system;

7. Maintain for a period of ~~three~~ 3 years or until such time as the personal information is purged, whichever is shorter, a complete and accurate record, including identity and purpose, of every access to any personal information in a system, including the identity of any persons or organizations not having regular access authority but excluding access by the personnel of the agency wherein data is put to service for the purpose for which it is obtained;

8. Take affirmative action to establish rules of conduct and inform each person involved in the design, development, operation, or maintenance of the system, or the collection or use of any personal information contained therein, about all the requirements of this chapter, the rules and procedures, including penalties for noncompliance, of the agency designed to assure compliance with such requirements;

9. Establish appropriate safeguards to secure the system from any reasonably foreseeable threat to its security; and

10. Collect no personal information concerning the political or religious beliefs, affiliations, and activities of data subjects that is maintained, used or disseminated in or by any information system operated by any agency unless authorized explicitly by statute or ordinance.

B. Every public body, as defined in § 2.2-3701, that has an Internet website associated with that public body shall develop an Internet privacy policy and an Internet privacy policy statement that explains the policy to the public. The policy shall be consistent with the requirements of this chapter. The statement shall be made available on the public body's website in a conspicuous manner. The Secretary of *Commerce and Technology* or his designee shall provide guidelines for developing the policy and the statement, and each public body shall tailor the policy and the statement to reflect the information practices of the individual public body. At minimum, the policy and the statement shall address (i) what information, including personally identifiable information, will be collected, if any; (ii) whether any information will be automatically collected simply by accessing the website and, if so, what information; (iii) whether the website automatically places a computer file, commonly referred to as a "cookie," on the Internet user's computer and, if so, for what purpose; and (iv) how the collected information is being used or will be used.

C. Notwithstanding the provisions of subsection A, the Virginia Retirement System may disseminate information as to the retirement status or benefit eligibility of any employee covered by the Virginia Retirement System, the Judicial Retirement System, the State Police Officers Retirement System, or the Virginia Law Officers' Retirement System, to the chief executive officer or personnel officers of the state or local agency by which he is employed.

§ 2.2-5100. Short title; definitions.

A. This chapter shall be known and may be cited as the "Virginia Investment Partnership Act."

B. As used in this chapter, unless the context requires a different meaning:

"Average manufacturing wage" means that amount determined by the Virginia Employment Commission to be the average wage paid manufacturing workers in a locality or region of the Commonwealth.

797 "Average nonmanufacturing wage" means that amount determined by the Virginia Employment  
798 Commission to be the average wage paid nonmanufacturing workers in basic employment in a locality  
799 or region of the Commonwealth.

800 "Basic employment" means employment that brings new or additional income into Virginia and adds  
801 to the gross state product.

802 "Capital investment" means an investment in real property, personal property, or both, at a  
803 manufacturing or basic nonmanufacturing facility within the Commonwealth that is capitalized by the  
804 company and that increases the productivity of the manufacturing facility, results in the utilization of a  
805 more advanced technology than is in use immediately prior to such investment, or both. In order to  
806 qualify as a capital investment, an investment in technology shall result in a measurable increase in  
807 capacity or productivity, a measurable decrease in the production of flawed product, or both.  
808 Expenditures for maintenance, replacement or repair of existing machinery, tools and real property shall  
809 not constitute a capital investment; however, expenditures for the replacement of property shall not be  
810 ineligible for designation as a capital investment if such replacement results in a measurable increase in  
811 productivity.

812 "Eligible manufacturer" means an existing Virginia manufacturer that makes a capital investment of  
813 at least \$25 million that is announced on or after June 1, 1998, which investment does not result in any  
814 net reduction in employment within one year after the capital investment has been completed and  
815 verified. Any entity participating in any other production grant program in the Commonwealth shall not  
816 be an eligible manufacturer.

817 "Existing Virginia manufacturer" means a manufacturer that has a legal presence within the  
818 Commonwealth for at least ~~five~~5 years prior to making the announcement of the capital investment that  
819 makes it an eligible manufacturer.

820 "Flawed product" means an irregular unit of goods that cannot be sold to an end user.

821 "Fund" means the Virginia Investment Partnership Grant Fund, comprised of (i) the Major Eligible  
822 Employer Grant subfund and (ii) the Investment Performance Grant subfund, created pursuant to  
823 § 2.2-5104.

824 "Major eligible employer" means an existing Virginia manufacturer or, for investments announced on  
825 or after February 1, 2000, any other nonmanufacturing basic employer that makes a capital investment  
826 of at least \$100 million and creates at least 1,000 jobs, announced on or after February 1, 2000.

827 "Manufacturer" means a business firm owning or operating a manufacturing establishment as defined  
828 in the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

829 "Net present value of benefits to Virginia" means the present value of the amount by which (i) the  
830 anticipated additional state tax revenue expected to accrue to the Commonwealth as a result of the  
831 capital investment and jobs created, over a period following the completion of the capital investment not  
832 to exceed ~~twenty~~20 years, exceeds (ii) the value of all incentives provided by the Commonwealth,  
833 including any grant under this article, for such capital investment during that period.

834 "New job" means employment of an indefinite duration at the eligible facility, created as the direct  
835 result of the capital investment, for which the standard fringe benefits are paid by the firm for the  
836 employee, requiring a minimum of either (i) ~~thirty-five~~35 hours of an employee's time a week for the  
837 entire normal year of the firm's operations, which "normal year" must consist of at least ~~forty-eight~~48  
838 weeks or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job  
839 function is shifted from an existing location in this Commonwealth to the facility, and positions with  
840 contractors, suppliers, and similar multiplier or spin-off jobs shall not qualify as new jobs under this  
841 article.

842 "Partnership" means the Virginia Economic Development Partnership.

843 "Productivity" means the number of hours of labor required to produce a unit of goods.

844 "Secretary" means the Secretary of Commerce and ~~Trade~~Technology.

845 § 2.2-5501. Definitions.

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

847 "Affected localities" means the locality in which a regulated introduction is proposed to be made and  
848 any locality within a ~~three~~3-mile radius of the location where the regulated introduction is proposed to  
849 be made.

850 "Confidential business information" means information entitled to confidential treatment under  
851 subdivision A. 1. or A. 2. of § 2.2-5506.

852 "Coordinated Framework" means the federal Coordinated Framework for the Regulation of  
853 Biotechnology set forth in 51 Fed. Reg. 23,302 through 23,350 (June 26, 1986), as amended.

854 "Department" means the department designated by the Secretary of Commerce and ~~Trade~~  
855 Technology to implement the requirements of this chapter for certain types or classes of regulated  
856 introductions. Where possible, the Secretary shall designate the department whose purpose most closely  
857 resembles the purpose of the federal regulator that will be responsible under the Coordinated Framework  
858 for reviewing and authorizing the regulated introduction.

"Federal regulator" means a federal department, agency, or other instrumentality of the federal government, or a designee of such federal instrumentality, which is responsible for regulating an introduction of a genetically engineered organism into the environment under the Coordinated Framework.

"Genetically engineered organism" means an organism (any organism such as animal, plant, bacterium, cyanobacterium, fungus, protist, or virus), altered or produced through genetic modification from a donor, vector, or recipient organism using modern molecular techniques such as recombinant deoxyribonucleic acid (DNA) methodology, and any living organisms derived therefrom.

"Locality" means any county, city or town located within the Commonwealth.

"Planned introduction into the environment" means the intentional introduction or use in the Commonwealth beyond the de minimis level of a genetically engineered organism anywhere except within an indoor facility that is designed to physically contain the genetically engineered organism, including a laboratory, greenhouse, building, structure, growth chamber, or fermenter.

"Regulated introduction" means a planned introduction into the environment for which the Coordinated Framework requires that the person proposing to commence the introduction into the environment do one or more of the following:

1. Notify a federal regulator of the proposed introduction into the environment;
2. Secure the approval of or a permit or license from a federal regulator before commencing the introduction into the environment; or
3. Secure a determination by a federal regulator of the need for notification, approval, licensing or issuance of a permit by the federal regulator if the determination is part of a procedure specified in the Coordinated Framework.

§ 3.1-18.6. Certain agencies to prepare plans for implementation of policy; Secretary of Commerce and Technology responsibilities.

Each of the following agencies shall prepare a plan for the implementation of the policies set forth in this chapter:

1. Department of Transportation;
2. Department of Health;
3. Department of Conservation and Recreation;
4. State Corporation Commission;
5. Department of Environmental Quality.

The plan shall contain an analysis of the impact which the agency's regulations and projects have on the conversion of farm and forest lands. The plan shall be updated and submitted to the Secretary of Commerce and ~~Trade Technology~~ and the Secretary of Natural Resources annually. The Secretary of Commerce and ~~Trade Technology~~ shall review the plan in consultation with the Commissioner of Agriculture and Consumer Services and the State Forester, and may recommend improvements to the plan. The Secretary of Commerce and ~~Trade Technology~~ shall submit a written report by December 1 of each year to the chairmen of the House Committee on Agriculture and the Senate Committee on Agriculture, Conservation and Natural Resources on the impacts of state agency actions on the conversion of farm and forest lands.

§ 3.1-1108. Membership; terms; vacancies; chairman.

A. The Commission shall be composed of ~~thirty-one~~ 31 members as follows:

1. Six members shall be appointed by the Speaker of the House of Delegates from the membership thereof in accordance with the principles of Rule 16 of the House of Delegates adopted at the 1998 Regular Session of the General Assembly;

2. Four members shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate;

3. The Secretary of Commerce and ~~Trade Technology~~ or his designee;

4. The Secretary of Finance or his designee;

5. The Commissioner of Agriculture and Consumer Affairs or his designee;

6. Three members shall be active flue-cured tobacco producers appointed by the Governor. Of the active flue-cured tobacco producers, ~~two~~ 2 shall be appointed by the Governor from a list of ~~six~~ 6 persons provided by the members of the General Assembly appointed to the Commission;

7. Three members shall be active burley tobacco producers appointed by the Governor. Of the active burley tobacco producers, ~~one~~ 1 member shall be appointed by the Governor from a list of ~~three~~ 3 persons provided by the members of the General Assembly appointed to the Commission;

8. One member shall be a representative of the Virginia Farm Bureau Federation appointed by the Governor from a list of at least ~~three~~ 3 persons provided by Virginia Farm Bureau Federation; and

9. Eleven members shall be citizens appointed by the Governor. Of the ~~eleven~~ 11 citizen members, ~~three~~ 3 shall be appointed by the Governor from a list of ~~nine~~ 9 provided by the members of the General Assembly appointed to the Commission.

920 With the exception of the Secretary of Commerce and ~~Trade Technology~~ or his designee, the  
921 Secretary of Finance or his designee and the Commissioner of Agriculture and Consumer Affairs or his  
922 designee, all members of the Commission shall reside in the Southside and Southwest regions of the  
923 Commonwealth and shall be subject to confirmation by the General Assembly. To the extent feasible,  
924 appointments representing the Southside and Southwest regions shall be proportional to the tobacco  
925 quota production of each region.

926 Except as otherwise provided herein, all appointments shall be for terms of ~~four~~ 4 years each.  
927 Vacancies shall be filled for the unexpired terms. No member shall be eligible to serve more than ~~two~~ 2  
928 successive four-year terms; however, after expiration of a term of ~~three~~ 3 years or less, or after the  
929 expiration of the remainder of a term to which he was appointed to fill a vacancy, ~~two~~ 2 additional  
930 terms may be served by such member if appointed thereto. Whenever any legislative member fails to  
931 retain his membership in the house from which he was appointed, he shall relinquish his membership on  
932 the Commission and the appointing authority who appointed such member shall make an appointment  
933 from his respective house to complete the term. Any appointment to fill a vacancy shall be made in the  
934 same manner as the original appointment. The initial appointments of the active flue-cured tobacco  
935 producers, the active burley tobacco producers, and the citizen members shall be as follows: ~~one~~ 1  
936 active flue-cured tobacco producer, ~~one~~ 1 active burley tobacco producer and ~~four~~ 4 citizen members  
937 shall be appointed for terms of ~~two~~ 2 years; ~~one~~ 1 active flue-cured tobacco producer, ~~one~~ 1 active  
938 burley tobacco producer and ~~four~~ 4 citizen members shall be appointed for terms of ~~three~~ 3 years; and  
939 ~~one~~ 1 active flue-cured tobacco producer, ~~one~~ 1 active burley tobacco producer and ~~three~~ 3 citizen  
940 members shall be appointed for terms of ~~four~~ 4 years. Thereafter all appointments shall be for terms of  
941 ~~four~~ 4 years.

942 B. The Commission shall appoint from its membership a chairman and a vice-chairman, both of  
943 whom shall serve in such capacities at the pleasure of the Commission. The chairman, or in his absence,  
944 the vice-chairman, shall preside at all meetings of the Commission. A majority of members of the  
945 Commission serving at any one time shall constitute a quorum for the transaction of business.

946 C. Members of the Commission shall receive compensation for their services at the rate provided in  
947 the appropriation act and reimbursement for actual expenses incurred in the performance of their duties  
948 on behalf of the Commission. Such expenses shall be paid from the Fund.

949 D. Members and employees of the Commission shall be subject to the standards of conduct set forth  
950 in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed  
951 from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set  
952 forth therein.

953 E. Except as otherwise provided in this chapter, members and employees of the Commission shall be  
954 subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

955 § 10.1-1100. Department of Forestry; appointment of the State Forester.

956 The Department of Forestry, hereinafter referred to in this chapter as the Department, is continued as  
957 an agency under the supervision of the Secretary of Commerce and ~~Trade Technology~~. The Department  
958 shall be headed by the State Forester, who shall be appointed by the Governor to serve at his pleasure  
959 for a term coincident with his own.

960 Any vacancy in the office of the State Forester shall be filled by appointment by the Governor  
961 pursuant to the provisions of Article V, Section 10 of the Constitution of Virginia.

962 The State Forester shall be a technically trained forester and shall have both a practical and  
963 theoretical knowledge of forestry.

964 § 15.2-946.1. (Expires June 30, 2004) Definitions.

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

966 "Eligible locality" means a locality in which one or more state-sponsored economic development  
967 projects completed on or after July 1, 1995, resulted in a demonstrated stress on local infrastructure.

968 "Fund" means the Governor's Economic Development Grant Fund established pursuant to  
969 § 15.2-946.3.

970 "Local infrastructure" means school buildings, including ancillary facilities, and roads.

971 "Secretary" means the Secretary of Commerce and ~~Trade Technology~~.

972 "State-sponsored economic development project" means a manufacturing facility or other job-creating  
973 economic development project for which the Commonwealth developed and submitted a formal proposal  
974 that included an incentive package to a business locating or expanding in an eligible locality.

975 § 15.2-946.3. (Expires June 30, 2004) Governor's Economic Development Grant Fund.

976 A. There is hereby established a special fund in the state treasury to be known as the Governor's  
977 Economic Development Grant Fund. The Fund shall include such moneys as may be appropriated by the  
978 General Assembly from time to time. The Fund shall be used solely for the payment of economic  
979 development grants pursuant to this article.

980 B. Contingent upon approval by the Governor, the Secretary of Commerce and ~~Trade Technology~~  
981 shall determine the amount of the grants to be distributed to eligible localities. The amount of an



economic development grant to any eligible locality under this section shall not exceed ~~ten~~10 percent of the amount appropriated by the General Assembly to the Governor's Economic Development Grant Fund for the applicable fiscal year. Under no circumstances shall an eligible locality be eligible for a grant under this article of more than \$3 million in aggregate. The aggregate amount of economic development grants approved under this section in any fiscal year shall not exceed \$10 million. The annual obligations of the Commonwealth to make grant payments to individual eligible localities under this section shall not exceed \$1 million annually per locality.

C. All excess funds remaining in the Fund in any given year shall be carried forward on the books of the Fund for use in subsequent years. The Secretary shall not approve the awarding of grants from the Fund in an amount that exceeds the dollar amount contained in the Fund. No grant shall be payable in the years beyond the existing appropriations act unless such funds are currently available in the Fund.

D. Actions of the Secretary relating to the allocation and awarding of grants shall be exempt from the requirements of Article 2 (§ 2.2-4007) of the Administrative Process Act.

§ 15.2-946.4. (Expires June 30, 2004) Guidelines.

The Secretary of Commerce and ~~Trade~~ *Technology* shall develop an application process and guidelines for use in determining the amount of any grant which an eligible locality may receive.

§ 22.1-226.1. (Effective until July 1, 2003) Coalfield Educational Empowerment Program created; region defined; administered by Department.

A. With such funds as may be appropriated for this purpose, there is hereby established the Coalfield Educational Empowerment Program which shall be referred to in this article as the Program. For the purposes of this article and the work of the Program, the coalfield region shall include the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise and the City of Norton.

B. The Adult Education Service of the Virginia Department of Education shall administer the Program and shall seek the input of school division superintendents in the coalfield region. The Department shall enter into agreements with adult education providers in the coalfield region to perform the functions of the Program.

C. The Department shall report to the region's local school boards, regional governing boards for adult education in the coalfield region, the Secretary of Education, the Secretary of Commerce and ~~Trade~~ *Technology*, the General Assembly, and the Governor by November 1 of each year regarding the impact and activities of the Program.

§ 23-231.9. Membership of governing board; terms; compensation; officers; bylaws.

A. The Extension Partnership shall be governed by a ~~twenty-three~~23 member board of trustees consisting of ~~three~~3 presidents of community colleges; ~~two~~2 presidents of public four-year institutions of higher education, and ~~one~~1 president of a private four-year institution of higher education; ~~fifteen~~15 citizen members, representing manufacturing industries, to be appointed by the Governor; the director of the Center for Innovative Technology; and the Secretary of Commerce and ~~Trade~~ *Technology*.

B. Initial appointments in 1992 shall be as follows: the ~~three~~3 community college presidents shall be appointed for ~~two~~2-year, ~~three~~3-year, and ~~four~~4-year terms, respectively; the ~~two~~2 presidents of the public ~~four~~4-year institutions shall be appointed for ~~two~~2-year and ~~four~~4-year terms, respectively; the president of a private ~~four~~4-year institution shall be appointed for a ~~three~~3-year term; ~~two~~2 citizen members shall be appointed for ~~two~~2-year terms, and ~~two~~2 citizen members shall be appointed for ~~three~~3-year and ~~four~~4-year terms, respectively. Of the ~~five~~5 citizen members to be appointed in 1994, ~~two~~2 shall be appointed for ~~two~~2-year terms, ~~two~~2 shall be appointed for ~~three~~3-year terms, and ~~one~~1 shall be appointed for a ~~four~~4-year term. Of the ~~six~~6 citizen members to be appointed in 1997, ~~two~~2 shall be appointed for ~~two~~2-year terms, ~~two~~2 shall be appointed for ~~three~~3-year terms, and ~~two~~2 shall be appointed for ~~four~~4-year terms. Thereafter, all appointments shall be for terms of ~~four~~4 years, except that appointments to fill vacancies shall be for the unexpired terms. With the exceptions of the director of the Center for Innovative Technology and the Secretary of Commerce and ~~Trade~~ *Technology*, no person shall be eligible to serve for more than ~~two~~2 successive ~~four~~4-year terms; however, upon the expiration of a term of less than ~~four~~4 years, or after the expiration of the remainder of a term to which appointed to fill a vacancy, ~~two~~2 additional terms may be served by such member if appointed thereto.

C. The board shall elect a chairman and a vice chairman from among its members and shall also elect a secretary and a treasurer, who may or may not be members of the board. The board may also elect other subordinate officers, who may or may not be members of the board. All members shall be reimbursed for their actual expenses incurred in the performance of their duties in the work of the Extension Partnership.

D. The board may adopt, alter, or repeal its own bylaws that govern the manner in which its business may be transacted and may form committees and advisory councils, which may include representatives who are not board members.

§ 36-150. Reports.

On or before September 30 of each year, the HDA shall report to the Board on the status of the

1043 Fund. On or before December 1 of each year, the Board shall report to the Secretary of Commerce and  
1044 ~~Trade~~Technology, the Governor and the Chairmen of the House Appropriations and the Senate Finance  
1045 Committees on the matters set forth in the report of the HDA and on such other matters regarding the  
1046 Fund as the Board may deem appropriate or as may be requested by any of the foregoing persons to  
1047 whom such report is to be submitted.

1048 § 56-586.1. Electric energy emergencies.

1049 A. As used in this section, "electric energy emergency" means an unplanned interruption in the  
1050 generation or transmission of electricity resulting from a hurricane, ice storm, windstorm, earthquake or  
1051 similar natural phenomena, or from a criminal act affecting such generation or transmission, act of war  
1052 or act of terrorism, which interruption is (i) of such severity that minimum levels of reliable service  
1053 cannot be maintained using resources practicably obtainable from the market and (ii) so imminently and  
1054 substantially threatening to the health, safety or welfare of residents of this Commonwealth that  
1055 immediate action of state government is necessary to prevent loss of life, protect the public health or  
1056 safety, and prevent unnecessary or avoidable damage to property.

1057 B. The Governor is authorized, after finding that an electric energy emergency exists and that  
1058 appropriate federal and state agencies and appropriate reliability councils cannot adequately address such  
1059 emergency, to declare an electric energy emergency by filing a written declaration with the Secretary of  
1060 the Commonwealth. The declaration shall state the counties and cities or utility service areas of the  
1061 Commonwealth in which the declaration is applicable, or its statewide application. A declared electric  
1062 energy emergency shall go into immediate effect upon filing and continue in effect for the period  
1063 prescribed in the declaration, but not more than ~~thirty~~30 days. At the end of the prescribed period, the  
1064 Governor may issue another declaration extending the emergency. The Governor shall terminate such  
1065 declaration as soon as the basis for such declaration no longer exists.

1066 C. During a declared electric energy emergency, the Governor is authorized, in compliance with  
1067 guidelines of the Department of Emergency Services promulgated as provided in subsection G, to  
1068 require any generator or any municipal electric utility that is capable of generating but (i) is not  
1069 generating or (ii) is not generating at its full potential during such declared electric emergency, to  
1070 generate, dispatch or sell electricity from a facility that it operates within the Commonwealth, to the  
1071 Commonwealth for distribution within the areas of the Commonwealth designated in the declaration. The  
1072 quantity of electricity required to be generated, dispatched or sold, and the duration of such  
1073 requirements, shall be as determined by the Governor to be necessary to alleviate the electric energy  
1074 emergency hardship. The Commonwealth shall compensate an entity required to generate, dispatch, or  
1075 sell electricity pursuant to this subsection, and the operator of any transmission facilities over which the  
1076 electricity is transmitted, in the manner provided in § 56-522, mutatis mutandis, unless otherwise  
1077 provided by federal law. The Department of Environmental Quality, the State Air Pollution Control  
1078 Board, the State Water Control Board, and the Virginia Waste Management Board shall issue any  
1079 temporary or emergency permit, order, or variance necessary to authorize any permit amendments or  
1080 other changes needed to meet the requirements imposed under this section and the Governor may  
1081 petition the President to declare a regional energy emergency under 42 U.S.C. § 1410 E as necessary to  
1082 suspend enforcement of any provision of the federal Clean Air Act. Any increased operation required  
1083 during such declared emergency shall not be counted towards the number of hours of operation allowed  
1084 during the year. No civil charges or penalties shall be imposed for any violation that occurs as a result  
1085 of actions taken that are necessary for the required generation, dispatch or sale during the declared  
1086 electric energy emergency. The foregoing provisions shall apply to all actions the entity takes in  
1087 connection with such required generation, dispatch or sale during the period of the declared emergency.

1088 D. During a declared electric energy emergency, the Governor may use the services, equipment,  
1089 supplies, and facilities of existing departments, offices, and agencies of the Commonwealth, and of the  
1090 political subdivisions thereof, to the maximum extent practicable and necessary to meet the electric  
1091 energy emergency. The officers and personnel of all such departments, offices, and agencies shall  
1092 cooperate with and extend such services and facilities to the Governor upon request.

1093 E. During a declared electric energy emergency, the Governor is authorized to request the Secretary  
1094 of the United States Department of Energy to invoke section 202(C) of the Federal Power Act, 16  
1095 U.S.C. § 824a (1935).

1096 F. The General Assembly is authorized by joint resolution to terminate any declaration of an electric  
1097 energy emergency. The emergency shall be terminated at the time of filing of the joint resolution with  
1098 the Secretary of the Commonwealth.

1099 G. The Department of Emergency Services, in consultation with the Commission and the Secretary  
1100 of Commerce and ~~Trade~~Technology, shall establish guidelines for the implementation of the Governor's  
1101 powers pursuant to subsection C that protect the public health and safety and prevent unnecessary or  
1102 avoidable damage to property with a minimum of economic disruption to generators, transmitters and  
1103 distributors of electricity. Such guidelines shall:

1104 1. Define various foreseeable levels of electric energy emergencies and specify appropriate measures

to be taken for each type of electric energy emergency as necessary to protect the public health or safety or prevent unnecessary or avoidable damage to property;

2. Prescribe appropriate response measures for each level of electric energy emergency; and

3. Equitably distribute the burdens and benefits resulting from the implementation of this section among other members of the affected class of persons within all geographic regions of the Commonwealth.

H. During a declared electric energy emergency, the attorney general may bring an action for injunctive or other appropriate relief in the Circuit Court of the City of Richmond to secure prompt compliance. The court may issue an ex parte temporary order without notice that shall enforce the prohibitions, restrictions or actions that are necessary to secure compliance with the guideline, order or declaration.

I. During a declared electric energy emergency, no person shall intentionally violate any guideline adopted or declaration issued pursuant to this section. Any person who violates this section is guilty of a Class 1 misdemeanor.

§ 59.1-284.13. Semiconductor Manufacturing Performance Grant Program; eligible counties.

A. As used in this section:

"Eligible county" means any county in Virginia with a population of at least 13,800 but not more than 14,800.

"Manufactures wafers" means the transformation of raw wafers into finished wafers (probed or unprobed).

"Qualified manufacturer" means any manufacturer of semiconductor products who (i) has made a capital investment of at least \$1 billion in buildings and equipment located in an eligible county for the manufacture of wafers or activities ancillary or supportive of such manufacture in such eligible county and (ii) manufactures wafers for fast static random access memories and microprocessors, and other semiconductor products.

"Secretary" means the Secretary of Commerce and ~~Trade~~ *Technology* or his designee.

"Wafer" or "wafers" means semiconductor wafers ~~eight~~ 8 inches or larger in diameter using 0.5 micron (or less) technology.

"Wafers used" or "uses wafers" means (i) the consigning or transferring of processed wafers to any manufacturing or processing facility of the qualified manufacturer for probe, assembly, or test or (ii) the consigning or transferring of wafers to a manufacturing or processing facility of a subsidiary or other affiliated corporation, a joint venture, a partner, or an independent contractor of the qualified manufacturer.

B. Any qualified manufacturer who, from January 1, 2002, through December 31, 2008, sells or uses wafers that it manufactured in an eligible county shall be entitled to receive an annual semiconductor manufacturing performance grant in the amount of \$250 per wafer manufactured by it in that county and sold or used by it during such calendar year for fast static random access memories, microprocessors or any other semiconductor products. The grants under this section (i) shall be paid from a fund to be entitled the Semiconductor Manufacturing Performance Grant Fund subject to appropriations by the General Assembly, (ii) shall not exceed \$60 million in the aggregate, and (iii) shall be paid, as provided in subsections E and F, to the qualified manufacturer during the calendar year immediately following the calendar year in which a particular wafer was sold or used.

C. If applications for grants under this section for wafers sold or used during a particular calendar year exceed the aggregate amount listed below for that year, each eligible applicant's grant for the year shall equal the amount of the grant to which the applicant would be entitled absent this subsection C times a fraction. The numerator of that fraction shall equal the amount listed or described below for the year, and the denominator shall equal the aggregate dollar amount of grants to which all applicants would be entitled for such calendar year absent this subsection C. The aggregate amount of the grants under this section for a particular year shall not exceed the following:

Year of Sale or Use Amount

2002 \$12 million

2003 \$24 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar year 2002

2004 \$36 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2002 and 2003

2005 \$48 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2002 through 2004

2006 \$60 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2002 through 2005

2007 \$60 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2002 through 2006

2008 \$60 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2002 through 2007

D. Any qualified manufacturer entitled to apply for a grant under this section shall provide evidence, satisfactory to the Secretary, of the number of wafers manufactured by it in an eligible county that were sold or used by it during a particular calendar year. The application and evidence shall be filed with the Secretary in person or by mail no later than March 31 (or such later date determined by the Secretary in his sole discretion) each year following the calendar year in which the wafers were sold or used. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for the wafers sold or used during such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

E. Within ~~ninety~~90 days after the filing deadline in subsection D, the Secretary shall certify to (i) the Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this section for wafers sold or used by it during the immediately preceding calendar year. Payment of such grant shall be made by check issued by the Treasurer of Virginia on warrant of the Comptroller within ~~sixty~~60 days of such certification.

F. As a condition of receipt of a grant, a qualified manufacturer shall make available to the Secretary or his designee for inspection upon his request all relevant and applicable documents to determine whether the manufacture and sale or use of the wafers meets the requirements for the receipt of grants as set forth in this section and subject to a memorandum of understanding between a qualified manufacturer and the Commonwealth. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act. All such documents appropriately identified by the qualified manufacturer shall be considered confidential and proprietary.

§ 59.1-284.14. Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program; eligible cities.

A. As used in this section:

"Cumulative investment" means the total investment in buildings and equipment made by a qualified manufacturer in an eligible city since the beginning of construction of a wafer manufacturing facility.

"Eligible city" means any Virginia city having a population of no less than 27,500 and no more than 28,500 as determined by the 1990 United States Census.

"Manufactures wafers" means manufacturing wafers in an eligible city, which may include on-site processing that increases the value of wafers by transforming raw wafers into semiconductor memory or logic wafers, and may include further processing of such wafers.

"Qualified manufacturer" means any manufacturer of semiconductor products who (i) has made a cumulative investment of at least one billion dollars located in an eligible city and (ii) manufactures wafers in that eligible city.

"Secretary" means the Secretary of Commerce and ~~Trade~~ Technology or his designee.

"Wafer" means a semiconductor memory or logic wafer. A wafer containing mixed memory and logic circuits shall be considered a logic wafer.

B. Beginning ~~five~~5 years after the commencement of the manufacture of wafers in an eligible city, any qualified manufacturer shall be entitled to receive an annual semiconductor memory or logic wafer manufacturing performance grant in the amount of \$100 per memory wafer and \$250 per logic wafer based upon its manufacture of wafers in that city and sale of those wafers. A qualified manufacturer shall be entitled to receive annual grants under this section for a period of ~~five~~5 years following the date its initial application for a grant is filed under subsection E, except as provided in subsection C. The grants under this section (i) shall be paid, as provided in subsections F and G, from a fund entitled the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund subject to appropriations by the General Assembly and (ii) shall not exceed \$38,400,000 in the aggregate; however, the cumulative value of grants to which qualified manufacturers shall be entitled shall be based upon the cumulative investment made by qualified manufacturers by the dates specified below:

		Cumulative	
Cumulative	Eligible Investment	Value of	
Investment	Period	Eligible Grant Period	Grants
\$1 billion	by December 31,	January 1, 2003,	\$18,600,000
	1998	through December	
		31, 2007	

1227				
1228	\$2.5 billion	by December 31,	January 1, 2007,	\$30,400,000
1229				
1230		2002	through December	
1231				
1232			31, 2011	
1233				
1234	\$4 billion	by December 31,	January 1, 2010,	\$38,400,000
1235				
1236		2005	through December	
1237				
1238			31, 2014	
1239				

1240 C. Any qualified manufacturer who makes (i) a cumulative investment of at least \$1 billion, but less  
 1241 than \$2.5 billion, shall be entitled to receive an annual grant payment of up to \$3,720,000, but the  
 1242 cumulative total of such grants shall not exceed \$18.6 million; (ii) a cumulative investment of at least  
 1243 \$2.5 billion, but less than \$4 billion, shall be entitled to receive an annual grant payment of up to  
 1244 \$6,080,000, but the cumulative total of such grants shall not exceed \$30.4 million; or (iii) a cumulative  
 1245 investment of \$4 billion or more shall be entitled to receive an annual grant payment of up to  
 1246 \$7,680,000, but the cumulative total of such grants shall not exceed \$38.4 million. If any qualified  
 1247 manufacturer, after having made the initial \$1 billion cumulative investment, achieves a higher  
 1248 cumulative investment level as shown in the schedule in subsection B earlier than the dates specified in  
 1249 that subsection, that qualified manufacturer shall immediately become eligible to receive the increased  
 1250 performance grant amount, if the initial ~~five~~5-year period from the beginning of manufacture of wafers  
 1251 has expired. In addition, after having made any higher investment level above the initial \$1 billion, the  
 1252 qualified manufacturer shall have through the last date shown in the eligible grant period to earn the full  
 1253 amount of the corresponding cumulative value of the performance grant. Under no circumstances shall  
 1254 any qualified manufacturer be eligible to receive more than \$38.4 million in grants during the duration  
 1255 of the program established by this section.

1256 D. If the value of applications for grants under this section for wafers manufactured and sold exceeds  
 1257 one-fifth of the cumulative value in the schedule listed in subsection B for the calendar year for which  
 1258 grants are sought corresponding to the cumulative investments made by the applicants, each qualified  
 1259 manufacturer's grant for that year shall equal the amount of the grant to which the qualified  
 1260 manufacturer would be entitled for such year absent the provisions of this subsection times a fraction.  
 1261 The numerator of that fraction shall equal one-fifth of the cumulative value in the schedule listed in  
 1262 subsection B for the calendar year for which grants are sought corresponding to the cumulative  
 1263 investments made by the applicants, and the denominator shall equal the aggregate dollar amount of  
 1264 grants to which all qualified manufacturers would be entitled absent this subsection.

1265 E. Any qualified manufacturer entitled to receive a grant under this section shall apply for the grant  
 1266 and provide evidence, satisfactory to the Secretary, of the number of wafers manufactured by it in an  
 1267 eligible city, the number of wafers which were sold during such calendar year, and the amount of  
 1268 cumulative investment made by the qualified manufacturer. The application and the evidence shall be  
 1269 filed with the Secretary in person or by mail no later than March 31, or such later date determined by  
 1270 the Secretary in his sole discretion, each year of the program following the year in which the wafers  
 1271 were sold. Failure to meet the application filing deadline shall render the qualified manufacturer  
 1272 ineligible to receive a grant for the wafers it manufactured and sold. For filings by mail, the postmark  
 1273 cancellation shall govern the date of the filing determination.

1274 F. Within ~~ninety~~90 days after the filing deadline established in subsection E, the Secretary shall  
 1275 certify to (i) the Comptroller and (ii) each qualified manufacturer the amount of the grant to which each  
 1276 qualified manufacturer is entitled under this section. Payment of such grant to any qualified  
 1277 manufacturer shall be made by check issued by the Treasurer of the Commonwealth of Virginia on  
 1278 warrant of the Comptroller within ~~sixty~~60 days after the Secretary's certification.

1279 G. As a condition of receipt of a grant, all qualified manufacturers shall make available to the  
 1280 Secretary for inspection upon his request all relevant and applicable documents to determine whether the  
 1281 manufacture and sale of the wafers meets the requirements for the receipt of grants as set forth in this  
 1282 section and subject to a memorandum of understanding between a qualified manufacturer and the  
 1283 Commonwealth. The Comptroller shall not draw any warrants to issue checks for this program without a  
 1284 specific legislative appropriation as specified in conditions and restrictions on expenditures in the  
 1285 appropriation act. All such documents appropriately identified by the qualified manufacturer shall be  
 1286 considered confidential and proprietary.

1287 § 59.1-284.14:1. Grants for capital investments made and jobs created by qualified semiconductor  
1288 manufacturers.

1289 A. As used in this section:

1290 "Eligible city" means the same as that term is defined in § 59.1-284.14.

1291 "New capital investment" means a capital investment made on or after May 1, 2000, in an eligible  
1292 city, which denotes investment in buildings and equipment by a qualified semiconductor manufacturer,  
1293 its related companies, or other entities with which it has a contractual, licensing, leasing or other  
1294 agreement. Such new capital investment shall not include any capital investment made before May 1,  
1295 2000, and shall not include any investment in buildings and equipment that also qualifies or has  
1296 qualified as cumulative investment for purposes of the grant program established under § 59.1-284.14.

1297 "New full-time job" means employment of an indefinite duration in an eligible city, created as the  
1298 direct result of new capital investment, for which the standard fringe benefits are paid by the qualified  
1299 semiconductor manufacturer, requiring a minimum of either (i) ~~thirty-five~~35 hours of an employee's time  
1300 per week for the entire normal year of such manufacturer's operations, which "normal year" must consist  
1301 of at least ~~forty-eight~~48 weeks or (ii) 1,680 hours per year. Seasonal or temporary positions, and  
1302 positions created when a job function is shifted from an existing location in the Commonwealth shall  
1303 not qualify as new full-time jobs under this section. Other positions including contractors, suppliers, and  
1304 multiplier or spin-off jobs may be considered new full-time jobs, if so designated in the Memorandum  
1305 of Understanding between such manufacturer and the Commonwealth.

1306 "Qualified semiconductor manufacturer" means a qualified manufacturer, as defined in § 59.1-284.14,  
1307 and its related companies that manufacture semiconductor-related products in an eligible city, either  
1308 directly or through contractual, licensing, leasing, or other agreements with other entities.

1309 "Secretary" means the Secretary of Commerce and ~~Trade~~ *Technology* or his designee.

1310 B. Any qualified semiconductor manufacturer shall be eligible for annual grant payments under this  
1311 section if the following conditions are met:

1312 1. If such manufacturer (i) makes new capital investments of at least \$700 million in an eligible city,  
1313 and (ii) such investment results in the creation of 600 new full-time jobs in such city by January 1,  
1314 2003, such manufacturer shall be eligible for annual grant payments of five million dollars beginning  
1315 after such \$700 million in new capital investments have been made or five years after the  
1316 commencement of the production of a semiconductor-related product using such new capital  
1317 investments, whichever is later. The manufacturer shall be eligible for a grant under this subdivision if  
1318 the number of persons employed by such manufacturer in an eligible city, by January 1, 2003, is equal  
1319 to at least the number of persons employed by such manufacturer immediately prior to May 1, 2000,  
1320 plus an additional 600 full-time employees. The grants under this subdivision shall not exceed  
1321 ~~twenty-five~~25 million dollars to all such qualified semiconductor manufacturers.

1322 2. If such manufacturer (i) makes new capital investments of an additional ~~two~~2 billion dollars in an  
1323 eligible city, and (ii) such investment results in the creation of an additional 1,350 new full-time jobs in  
1324 such city by January 1, 2007, such manufacturer shall be eligible for ~~two~~2 annual grant payments of  
1325 ~~five~~5 million dollars beginning ~~two~~2 years after such ~~two~~2 billion dollars in new capital investments have  
1326 been made. A qualified semiconductor manufacturer shall be eligible for a grant under this subdivision if  
1327 such new capital investments are in addition to the new capital investments made under subdivision 1.

1328 3. The qualified semiconductor manufacturer shall also be eligible to receive ~~four~~4 annual grant  
1329 payments of \$8,750,000 beginning in the second year after a certification by the Secretary that such  
1330 additional 1,350 new full-time jobs have been created by the qualified semiconductor manufacturer. A  
1331 qualified semiconductor manufacturer shall be eligible for a grant under this subdivision if the number  
1332 of persons employed by such manufacturer in an eligible city, by January 1, 2007, is equal to at least  
1333 the number of persons employed by such manufacturer immediately prior to May 1, 2000, plus an  
1334 additional 1,950 full-time employees.

1335 4. The total amount of grants to all such qualified semiconductor manufacturers under subdivisions 1  
1336 through 3 shall not exceed seventy million dollars. In addition, no grant shall be paid to a qualified  
1337 semiconductor manufacturer until the Senate Committee on Finance and the House Committees on  
1338 Appropriations and Finance review the unsigned written Memorandum of Understanding between such  
1339 manufacturer and the Commonwealth, with such Memorandum of Understanding specifying the  
1340 conditions of grant eligibility.

1341 C. Any semiconductor-related products that are produced or manufactured as a result of such new  
1342 capital investments shall not be eligible for grants as provided under § 59.1-284.14.

1343 D. Any qualified semiconductor manufacturer entitled to apply for a grant under this section shall  
1344 provide evidence, satisfactory to the Secretary, of new capital investment and employment levels  
1345 achieved in an eligible city during a particular calendar year. The application and evidence shall be filed  
1346 by such manufacturer with the Secretary in person or by mail no later than March 31 (or such later date  
1347 determined by the Secretary in his sole discretion) each year it is eligible for grants in the calendar year  
1348 or years following the calendar year in which the conditions of subsection B have been met. Failure to

meet the filing deadline shall render the applicant ineligible to receive a grant for such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

E. Within ninety days after the filing deadline in subsection D, the Secretary shall certify to (i) the Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this section for the calendar year. Payment of such grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within sixty days of such certification.

F. As a condition of receipt of a grant, a qualified semiconductor manufacturer shall make available to the Secretary for inspection, upon his request, all relevant and applicable documents to determine whether the qualified semiconductor manufacturer meets the requirements for the receipt of grants as set forth in this section and subject to a Memorandum of Agreement between a qualified semiconductor manufacturer and the Commonwealth. All such documents appropriately identified by the qualified semiconductor manufacturer shall be considered confidential and proprietary. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act.

G. The grants that may be paid under this section shall be paid from the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund established under § 59.1-284.14, subject to appropriations to such fund by the General Assembly.

§ 59.1-284.15. Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program II.

A. As used in this section:

"Eligible county" means any county in Virginia with a population of at least 217,500 but not more than 220,000 as determined by the 1990 United States Census.

"Manufactures wafers" means manufacturing wafers in an eligible county, and includes on-site processing that increases the value of wafers by transforming raw wafers into semiconductor memory or logic wafers.

"Qualified manufacturer" means any manufacturer of semiconductor products which has made a capital investment of at least \$1 billion in buildings and equipment located in an eligible county for the manufacture of wafers in such eligible county. In the case of a qualified manufacturer which is a partnership, qualified manufacturer means the partnership or its individual partners.

"Secretary" means the Secretary of Commerce and ~~Trade~~ *Technology* or his designee.

"Wafer" means a semiconductor memory or logic wafer. A wafer containing mixed memory and logic circuits shall be considered a logic wafer.

"Wafer used" or "uses wafers" means (i) the consigning or transferring of processed wafers to any manufacturing or processing facility of the qualified manufacturer for probe, assembly, or test or (ii) the consigning or transferring of wafers to a manufacturing or processing facility of a subsidiary or other affiliated corporation, a joint venture, a partner, or an independent contractor of the qualified manufacturer.

B. Beginning five years after the commencement of manufacture of wafers, any qualified manufacturer who, from January 1, 2003, through December 31, 2009, sells or uses wafers that it manufactured in an eligible county shall be entitled to receive an annual semiconductor manufacturing performance grant in the amount of \$100 per memory wafer and \$250 per logic wafer sold or used. The grants under this section (i) shall be paid from a fund to be entitled the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund II subject to appropriations by the General Assembly, (ii) shall not exceed \$15 million in the aggregate, and (iii) shall be paid, as provided in subsections E and F, to the qualified manufacturer during the calendar year immediately following the calendar year in which a particular wafer was sold or used.

C. If applications for grants under this section for wafers sold or used during a particular calendar year exceed the aggregate amount listed below for that year, each eligible applicant's grant for the year shall equal the amount of the grant to which the applicant would be entitled, absent this subsection C, times a fraction. The numerator of that fraction shall equal the amount listed or described below for the year, and the denominator shall equal the aggregate dollar amount of grants to which all applicants would be entitled for such calendar year absent this subsection C. The aggregate amount of the grants under this section for a particular year shall not exceed the following:

Year of Sale or Use Amount

2003 \$3 million

2004 \$6 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar year 2003

2005 \$9 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2003 and 2004

2006 \$12 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2003 through 2005

2007 \$15 million, less the aggregate amount of grants to which all qualified manufacturers were

1410 entitled for wafers sold or used during the calendar years 2003 through 2006

1411 2008 \$15 million, less the aggregate amount of grants to which all qualified manufacturers were  
1412 entitled for wafers sold or used during the calendar years 2003 through 2007

1413 2009 \$15 million, less the aggregate amount of grants to which all qualified manufacturers were  
1414 entitled for wafers sold or used during the calendar years 2003 through 2008

1415 D. Any qualified manufacturer entitled to apply for a grant under this section shall provide evidence,  
1416 satisfactory to the Secretary, of the number of wafers it manufactured in an eligible county that were  
1417 sold or used during a particular calendar year. The application and evidence shall be filed with the  
1418 Secretary in person or by mail no later than March 31 (or such later date determined by the Secretary in  
1419 his sole discretion) each year following the calendar year in which the wafers were sold or used. Failure  
1420 to meet the filing deadline shall render the applicant ineligible to receive a grant for the wafers sold or  
1421 used during such calendar year. For filings by mail, the postmark cancellation shall govern the date of  
1422 the filing determination.

1423 E. Within ~~ninety~~90 days after the filing deadline in subsection D, the Secretary shall certify to (i) the  
1424 Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this  
1425 section for wafers sold or used by it during the immediately preceding calendar year. Payment of such  
1426 grant shall be made by check issued by the Treasurer of Virginia on warrant of the Comptroller within  
1427 sixty days of such certification; provided that no payments shall be made to a partnership, but shall  
1428 instead be made to its partners in accordance with their written instructions delivered to the Secretary  
1429 prior to the filing deadline or, in the absence of such written instructions, in equal shares to each  
1430 partner.

1431 F. As a condition of receipt of a grant, a qualified manufacturer shall make available to the Secretary  
1432 or his designee for inspection upon his request all relevant and applicable documents to determine  
1433 whether the manufacture and sale or use of the wafers meets the requirements for the receipt of grants  
1434 as set forth in this section and subject to a memorandum of understanding between a qualified  
1435 manufacturer and the Commonwealth. The Comptroller shall not draw any warrants to issue checks for  
1436 this program without a specific legislative appropriation as specified in conditions and restrictions on  
1437 expenditures in the appropriation act. All such documents appropriately identified by the qualified  
1438 manufacturer shall be considered confidential and proprietary.

1439 § 59.1-497. Interoperability.

1440 A public body of the Commonwealth which adopts standards pursuant to § 59.1-496 and the  
1441 Secretary of Commerce and ~~Trade~~Technology may encourage and promote consistency and  
1442 interoperability with similar requirements adopted by other public bodies of the Commonwealth, other  
1443 states and the federal government and nongovernmental persons interacting with public bodies of the  
1444 Commonwealth. If appropriate, those standards may specify differing levels of standards from which  
1445 public bodies of the Commonwealth may choose in implementing the most appropriate standard for a  
1446 particular application.

1447 § 62.1-195.1. Chesapeake Bay; drilling for oil or gas prohibited.

1448 A. Notwithstanding any other law, a person shall not drill for oil or gas in the waters of the  
1449 Chesapeake Bay or any of its tributaries. In Tidewater Virginia, as defined in § 10.1-2101, a person shall  
1450 not drill for oil or gas in, whichever is the greater distance, as measured landward of the shoreline:

1451 1. Those Chesapeake Bay Preservation Areas, as defined in § 10.1-2101, which a local government  
1452 designates as "Resource Protection Areas" and incorporates into its local comprehensive plan. "Resource  
1453 Protection Areas" shall be defined according to the criteria developed by the Chesapeake Bay Local  
1454 Assistance Board pursuant to § 10.1-2107; or

1455 2. Five hundred feet from the shoreline of the waters of the Chesapeake Bay or any of its tributaries.

1456 B. In the event that any person desires to drill for oil or gas in any area of Tidewater Virginia where  
1457 drilling is not prohibited by the provisions of subsection A of this section, he shall submit to the  
1458 Department of Mines, Minerals and Energy as part of his application for permit to drill an  
1459 environmental impact assessment. The environmental impact assessment shall include:

1460 1. The probabilities and consequences of accidental discharge of oil or gas into the environment  
1461 during drilling, production, and transportation on:

- 1462 a. Finfish, shellfish, and other marine or freshwater organisms;  
1463 b. Birds and other wildlife that use the air and water resources;  
1464 c. Air and water quality; and  
1465 d. Land and water resources;

1466 2. Recommendations for minimizing any adverse economic, fiscal, or environmental impacts; and

1467 3. An examination of the secondary environmental effects of induced economic development due to  
1468 the drilling and production.

1469 C. Upon receipt of an environmental impact assessment, the Department of Mines, Minerals and  
1470 Energy shall notify the Department of Environmental Quality to coordinate a review of the  
1471 environmental impact assessment. The Department of Environmental Quality shall:



1. Publish in the Virginia Register of Regulations a notice sufficient to identify the environmental impact assessment and providing an opportunity for public review of and comment on the assessment. The period for public review and comment shall not be less than thirty days from the date of publication;

2. Submit the environmental impact assessment to all appropriate state agencies to review the assessment and submit their comments to the Department of Environmental Quality; and

3. Based upon the review by all appropriate state agencies and the public comments received, submit findings and recommendations to the Department of Mines, Minerals and Energy, within ~~ninety~~90 days after notification and receipt of the environmental impact assessment from the Department.

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

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

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

1. For directional drilling, the person has the permission of the owners of all lands to be directionally drilled into;

2. The person files an oil discharge contingency plan and proof of financial responsibility to implement the plan, both of which have been filed with and approved by the State Water Control Board. For purposes of this section, the oil discharge contingency plan shall comply with the requirements set forth in § 62.1-44.34:15. The Board's regulations governing the amount of any financial responsibility required shall take into account the type of operation, location of the well, the risk of discharge or accidental release, the potential damage or injury to state waters or sensitive natural resource features or the impairment of their beneficial use that may result from discharge or release, the potential cost of containment and cleanup, and the nature and degree of injury or interference with general health, welfare and property that may result from discharge or accidental release;

3. All land-disturbing activities resulting from the construction and operation of the permanent facilities necessary to implement the contingency plan and the area within the berm will be located outside of those areas described in subsection A of this section;

4. The drilling site is stabilized with boards or gravel or other materials which will result in minimal amounts of runoff;

5. Persons certified in blowout prevention are present at all times during drilling;

6. Conductor pipe is set as necessary from the surface;

7. Casing is set and pressure grouted from the surface to a point at least 2500 feet below the surface or 300 feet below the deepest known ground water, as defined in § 62.1-255, for a beneficial use, as defined in § 62.1-10, whichever is deeper;

8. Freshwater-based drilling mud is used during drilling;

9. There is no onsite disposal of drilling muds, produced contaminated fluids, waste contaminated fluids or other contaminated fluids;

10. Multiple blow-out preventers are employed; and

11. The person complies with all requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 and regulations promulgated thereunder.

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

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

§ 66-25.1. Work programs.

1533 A. Any agreement with a public or private entity for the operation of a work program for juveniles  
1534 committed to the Department shall be submitted for review to a committee appointed by the Governor  
1535 for that purpose. The committee shall include representatives from an employee association or  
1536 organization, the business community, a chamber of commerce, an industry association, the Office of the  
1537 Secretary of Commerce and Trade, Technology, and the Office of the Secretary of Public Safety.

1538 B. The primary purpose of such work program shall be the training of such juveniles, not the  
1539 production of goods or the rendering of service by juveniles committed to the Department. Such work  
1540 programs also shall not interfere with or impact a juvenile's education program where the goal is  
1541 achieving a high school diploma or its equivalent. The Board shall promulgate regulations governing the  
1542 form and review process for proposed agreements.

1543 C. Articles produced or manufactured and services provided by juveniles participating in such a work  
1544 program may be purchased by any county, district of any county, city or town and by any nonprofit  
1545 organization, including volunteer lifesaving or first aid crews, rescue squads, fire departments, sheltered  
1546 workshops and community service organizations. Such articles and services may also be bought, sold or  
1547 acquired by exchange on the open market through the participating public or private entity.

1548 D. Revenues received from the sale of articles, as provided in subsection C, shall be deposited into a  
1549 special fund established in the state treasury. Such funds shall be expended to support work programs  
1550 for juveniles committed to the Department.

1551 2. That Article 9 (§§ 2.2-225 through 2.2-227) of Chapter 2 of Title 2.2 of the Code of Virginia is  
1552 repealed.

1553 3. That as of the effective date of this act, the Office of the Secretary of Commerce and  
1554 Technology shall be deemed the successor in interest to the Office of the Secretary of Technology  
1555 and the Office of the Secretary of Commerce and Trade. All right, title, and interest in and to any  
1556 real or tangible personal property vested in the Office of the Secretary of Technology or the Office  
1557 of the Secretary of Commerce and Trade as of the effective date of this act shall be transferred to  
1558 and taken as standing in the name of the Office of the Secretary of Commerce and Technology.

1559 #