

19106313D

HOUSE BILL NO. 2550

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations on February 1, 2019)

(Patron Prior to Substitute—Delegate Jones, S.C.)

A BILL to amend and reenact §§ 2.2-204, 2.2-225, 2.2-3705.6, 2.2-3705.7, 2.2-3711, 23.1-203, and 51.1-124.38 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 22 of Title 2.2 an article numbered 11, consisting of sections numbered 2.2-2351 through 2.2-2367; and to repeal Article 3 (§§ 2.2-2218 through 2.2-2233.1) of Chapter 22 of Title 2.2 and Article 8 (§§ 23.1-3130 through 23.1-3134) of Chapter 31 of Title 23.1, relating to research and development in the Commonwealth.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-204, 2.2-225, 2.2-3705.6, 2.2-3705.7, 2.2-3711, 23.1-203, and 51.1-124.38 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 22 of Title 2.2 an article numbered 11, consisting of sections numbered 2.2-2351 through 2.2-2367, as follows:

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

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Commonwealth of Virginia Research Consortium Authority, Virginia International Trade Corporation, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, Tobacco Region Revitalization Commission, and Board of Accountancy. 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.).

§ 2.2-225. Position established; agencies for which responsible; additional powers.

The position of Secretary of Technology (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies, councils, and boards: Information Technology Advisory Council, Innovation and Entrepreneurship Investment Authority, Virginia Information Technologies Agency, Virginia Geographic Information Network Advisory Board, and the 9-1-1 Services Board. The Governor, by executive order, may assign any other state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

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 baccalaureate institutions of higher education 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.

5. Assist the Joint Commission on Technology and Science created pursuant to § 30-85 in its efforts to stimulate, encourage, and promote the development of technology in the Commonwealth.

6. Continuously monitor and analyze the technology investments and strategic initiatives of other states to ensure the Commonwealth remains competitive.

7. Strengthen interstate and international partnerships and relationships in the public and private sectors to bolster the Commonwealth's reputation as a global technology center.

8. Develop and implement strategies to accelerate and expand the commercialization of intellectual property created within the Commonwealth.

60 9. Ensure the Commonwealth remains competitive in cultivating and expanding growth industries,
61 including life sciences, advanced materials and nanotechnology, biotechnology, and aerospace.

62 10. Monitor the trends in the availability and deployment of and access to broadband
63 communications services, which include, but are not limited to, competitively priced, high-speed data
64 services and Internet access services of general application, throughout the Commonwealth and
65 advancements in communications technology for deployment potential. The Secretary shall report
66 annually by December 1 to the Governor and General Assembly on those trends.

67 11. Designate specific projects as enterprise information technology projects, prioritize the
68 implementation of enterprise information technology projects, and establish enterprise oversight
69 committees to provide ongoing oversight for enterprise information technology projects. At the discretion
70 of the Governor, the Secretary shall designate a state agency or public institution of higher education as
71 the business sponsor responsible for implementing an enterprise information technology project, and
72 shall define the responsibilities of lead agencies that implement enterprise information technology
73 projects. For purposes of this subdivision, "enterprise" means an organization with common or unifying
74 business interests. An enterprise may be defined at the Commonwealth level or Secretariat level for
75 programs and project integration within the Commonwealth, Secretariats, or multiple agencies.

76 12. Establish Internal Agency Oversight Committees and Secretariat Oversight Committees as
77 necessary and in accordance with § 2.2-2021.

78 13. Review and approve the Commonwealth strategic plan for information technology, as developed
79 and recommended by the Chief Information Officer pursuant to subdivision A 3 of § 2.2-2007.1.

80 14. Communicate regularly with the Governor and other Secretaries regarding issues related to the
81 provision of information technology services in the Commonwealth, statewide technology initiatives, and
82 investments and other efforts needed to achieve the Commonwealth's information technology strategic
83 goals.

84 15. Provide consultation on guidelines, at the recommendation of the Innovation and
85 Entrepreneurship Investment Authority, for the application, review, and award of funds from the
86 Commonwealth Research Commercialization Fund pursuant to § 2.2-2233.1.

87 *Article 11.*

88 *Commonwealth of Virginia Research Consortium Act.*

89 **§ 2.2-2351. Short title; declaration of public purpose.**

90 A. *This article shall be known and may be cited as the Commonwealth of Virginia Research*
91 *Consortium Act.*

92 B. *It is found and determined by the General Assembly that there exists in the Commonwealth a need*
93 *to support the entire life cycle of innovation and promote research and development in the*
94 *Commonwealth, from basic and translational research, to entrepreneurship, seed stage funding, and*
95 *commercialization. A collaborative, consistent, and consolidated approach will assist the Commonwealth*
96 *in identifying its research strengths, including the identification of talents and resources that make the*
97 *Commonwealth a unique place to conduct research and establish and grow new technology-based*
98 *businesses. It is also found and determined by the General Assembly that there exists in the*
99 *Commonwealth of Virginia a need to (i) promote the economic development of the Commonwealth by*
100 *attracting and retaining high technology jobs and businesses in Virginia; (ii) increase industry*
101 *competitiveness by supporting the application of innovative technologies that improve productivity and*
102 *efficiency; (iii) mobilize support for high technology industries to commercialize new products and*
103 *processes, including organizing assistance for small business and supporting select industry sectors and*
104 *regional high technology efforts; (iv) enhance and expand the scientific and technological research and*
105 *development capabilities of the institutions of higher education in the Commonwealth and coordinate*
106 *such capabilities with the scientific and technological research and development activities and*
107 *requirements of the public and private sectors, including transferring technological advances from*
108 *proof-of-concept through commercialization to support new business and job creation; (v) expand*
109 *knowledge pertaining to scientific and technological research and development among public and*
110 *private entities; (vi) attract research and development (R&D) facilities and contracts from the federal*
111 *government and private sector, including coordinating efforts to identify and compete for large federal*
112 *and private sector R&D facilities, tracking federal technology initiatives and recommending state*
113 *actions, and developing a statewide strategy to compete for large public and private R&D contracts;*
114 *(vii) facilitate and coordinate the marketing, organization, utilization, and development of scientific and*
115 *technological research and development in the Commonwealth; (viii) attract and provide new private*
116 *and public funding in the Commonwealth to support research and entrepreneurship activities to create*
117 *new job opportunities and diversify the economy; and (ix) encourage entrepreneurship through better*
118 *coordination of existing activities in all regions of the Commonwealth.*

119 C. *To achieve the objectives set forth in subsection B, there is created and constituted a political*
120 *subdivision of the Commonwealth to be known as the Commonwealth of Virginia Research Consortium*
121 *Authority. The Consortium's exercise of powers conferred by this article shall be deemed to be the*

122 performance of an essential governmental function and matters of public necessity for which public
123 moneys may be spent and private property acquired.

124 **§ 2.2-2352. Definitions.**

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

126 "Board" means the Board of Directors of the Consortium.

127 "Consortium" means the Commonwealth of Virginia Research Consortium Authority.

128 "Council" means the Virginia Research and Technology Advisory Council.

129 "Fund" means the Commonwealth Research Consortium Fund.

130 "Roadmap" means the Commonwealth Research and Technology Strategic Roadmap.

131 **§ 2.2-2353. Board of Directors; members; Chief Executive Officer.**

132 A. The Consortium shall be governed by a board of directors consisting of 13 voting members as
133 follows: (i) the Secretary of Commerce and Trade, the Secretary of Finance, the chairman of the State
134 Council of Higher Education for Virginia or his designee, the staff director of the House Committee on
135 Appropriations, and the staff director of the Senate Committee on Finance, all of whom shall serve ex
136 officio, and (ii) eight nonlegislative citizen members, four to be appointed by the Governor, and four to
137 be appointed by the Joint Rules Committee.

138 B. Each of the nonlegislative citizen members shall possess significant and proven experience in at
139 least one of the following areas: commercialization of university research, serial company founding,
140 venture and angel investment, or industry segments significant to Virginia's economy including
141 technology, life sciences, advanced manufacturing, biotechnology, cybersecurity, or any other industry
142 identified in the Roadmap. In making appointments, the Governor and the Joint Rules Committee shall
143 ensure that all regions of the Commonwealth are represented on the Board. In determining such
144 geographic representation, ex officio members of the Board may be considered to represent the region
145 in which they serve in their official capacity.

146 B. 1. After an initial staggering of terms, members of the Board shall serve terms of four years. No
147 member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for
148 the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional
149 terms. Nonlegislative citizen members shall be citizens of the Commonwealth.

150 2. Ex officio members shall serve terms coincident with their terms of office.

151 C. Members of the Board shall receive such compensation for the performance of their duties as
152 provided in § 2.2-2813. Members shall be reimbursed for all reasonable and necessary expenses
153 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the
154 costs of compensation and expenses of the members shall be provided by the Consortium.

155 D. The Board shall be deemed a supervisory board within the meaning of § 2.2-2100.

156 E. The Board shall elect a chairman from the nonlegislative citizen members of the Board, and the
157 Secretary of Commerce and Trade shall serve as the vice-chair. The Board shall elect a secretary and a
158 treasurer, who need not be members of the Board, and may also elect other subordinate officers, who
159 need not be members of the Board. The Board may also form advisory committees, which may include
160 representatives who are not members of the Board, to undertake more extensive study and issues before
161 the Board.

162 F. A majority of the members shall constitute a quorum for the transaction of the Consortium's
163 business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights
164 and perform all duties of the Consortium. The Board shall meet at least quarterly or at the call of the
165 chairman.

166 G. The Board shall appoint the chief executive officer of the Consortium, who shall not be a member
167 of the Board who shall serve at the pleasure of the Board and carry out such powers and duties
168 conferred upon him by the Board.

169 H. The Board may appoint such advisory committees as it deems necessary to assist with carrying
170 out the powers and duties of the Consortium.

171 **§ 2.2-2254. Powers and duties of the Chief Executive Officer.**

172 The Chief Executive Officer shall employ or retain such agents or employees subordinate to the
173 Chief Executive Officer as may be necessary to fulfill the duties of the Consortium conferred upon the
174 Chief Executive Officer, subject to the Board's approval. Employees of the Consortium shall be eligible
175 for membership in the Virginia Retirement System and participation in all of the health and related
176 insurance and other benefits, including premium conversion and flexible benefits, available to state
177 employees as provided by law. The Chief Executive Officer shall also exercise such of the powers and
178 duties relating to the direction of the Commonwealth's research and commercialization efforts conferred
179 upon the Consortium as may be delegated to him by the Board, including powers and duties involving
180 the exercise of discretion. The Chief Executive Officer shall also exercise and perform such other
181 powers and duties as may be lawfully delegated to him or as may be conferred or imposed upon him by
182 law.

183 § 2.2-2355. Powers of the Consortium.

184 *The Consortium is granted all powers necessary or convenient for the carrying out of its statutory*
185 *purposes, including, but not limited to, the following rights and powers to:*

186 *1. Sue and be sued, implead and be impleaded, and complain and defend in all courts.*

187 *2. Adopt, use, and alter at will a corporate seal.*

188 *3. Acquire, purchase, hold, use, lease, or otherwise dispose of any project and property, real,*
189 *personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out*
190 *the purposes of the Consortium, and, without limitation of the foregoing, to lease as lessee, any project*
191 *and any property, real, personal or mixed, or any interest therein, at such annual rental and on such*
192 *terms and conditions as may be determined by the Board and to lease as lessor to any person, any*
193 *project and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any*
194 *time acquired by the Consortium, whether wholly or partially completed, at such annual rental and on*
195 *such terms and conditions as may be determined by the Board, and to sell, transfer, or convey any*
196 *property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or*
197 *held by the Consortium on such terms and conditions as may be determined by the Board of the*
198 *Consortium.*

199 *4. Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and*
200 *operate projects.*

201 *5. Adopt bylaws for the management and regulation of its affairs.*

202 *6. Establish and maintain satellite offices within the Commonwealth.*

203 *7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for*
204 *the sale of products of or for the services rendered by, the Consortium, at rates to be determined by it*
205 *for the purpose of providing for the payment of the expenses of the Consortium, the planning,*
206 *development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of*
207 *its projects and properties, the payment of the costs accomplishing its purposes set forth in § 2.2-2351,*
208 *the payment of the principal of and interest on its obligations, and the fulfillment of the terms and*
209 *provisions of any agreements made with the purchasers or holders of any such obligations.*

210 *8. Make and enter into all contracts and agreements necessary or incidental to the performance of*
211 *its duties, the furtherance of its purposes, and the execution of its powers under this article, including*
212 *agreements with any person or federal agency.*

213 *9. Employ, in its discretion, employees and agents as may be necessary, and fix their compensation*
214 *to be payable from funds made available to the Consortium.*

215 *10. Receive and accept from any federal or private agency, foundation, corporation, association or*
216 *person grants to be expended in accomplishing the objectives of the Consortium, and receive and accept*
217 *from the Commonwealth or any state, and any municipality, county, or other political subdivision*
218 *thereof and from any other source, aid or contributions of either money, property, or other things of*
219 *value, to be held, used, and applied only for the purposes for which such grants and contributions may*
220 *be made.*

221 *11. Render advice and assistance, and provide services, to institutions of higher education and to*
222 *other persons providing services or facilities for scientific and technological research or graduate*
223 *education, provided that credit towards a degree, certificate, or diploma shall be granted only if such*
224 *education is provided in conjunction with an institution of higher education authorized to operate in*
225 *Virginia.*

226 *12. Develop, undertake, and provide programs, alone or in conjunction with any person or federal*
227 *agency, for scientific and technological research, technology management, continuing education and*
228 *in-service training, provided that credit towards a degree, certificate, or diploma shall be granted only*
229 *if such education is provided in conjunction with an institution of higher education authorized to*
230 *operate in Virginia; foster the utilization of scientific and technological research information,*
231 *discoveries, and data and to obtain patents, copyrights, and trademarks thereon; to coordinate the*
232 *scientific and technological research efforts of public institutions and private industry and collect and*
233 *maintain data on the development and utilization of scientific and technological research capabilities.*

234 *13. Pledge or otherwise encumber all or any of the revenues or receipts of the Consortium as*
235 *security for all or any of the obligations of the Consortium.*

236 *14. Receive, administer, and market any interest in patents, copyrights, and materials that were*
237 *potentially patentable or copyrightable developed by or for state agencies, public institutions of higher*
238 *education, and political subdivisions of the Commonwealth.*

239 *15. Develop the Commonwealth Research and Technology Strategic Roadmap, pursuant to*
240 *§ 2.2-2360, for the Commonwealth to use to identify research areas worthy of institutional focus and*
241 *Commonwealth investment in order to promote commercialization and economic development efforts in*
242 *the Commonwealth.*

243 *16. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's*
244 *state institutions of higher education, the private sector, federal labs, and not-for-profit organizations to*

245 improve research and development commercialization efforts.

246 17. Receive and review annual reports from state institutions of higher education regarding the
 247 progress of projects funded through the Consortium. The Consortium shall develop guidelines,
 248 methodologies, and criteria for the reports. The Consortium shall aggregate the reports and submit an
 249 annual omnibus report on the status of research and development initiatives in the Commonwealth to
 250 the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on
 251 Science and Technology, the Senate Committee on Finance, and the Senate Committee on General Laws
 252 and Technology.

253 18. Administer grant, loan, and investment programs as authorized by this article. The Consortium
 254 shall develop guidelines, subject to the approval of the Board, for the application, review, and award of
 255 grants, loans, and investments under the provisions of this article. These guidelines shall address, at a
 256 minimum, the application process and, where appropriate, shall give special emphasis to fostering
 257 collaboration between institutions of higher education and partnerships between institutions of higher
 258 education and business and industry.

259 19. Establish and administer, through any nonstock, nonprofit corporation established by the
 260 Consortium, investment funds that may accept funds from any source, public or private, to support
 261 venture capital activities in the Commonwealth. The administration of any such investment fund shall be
 262 advised by the Investment Advisory Committee created pursuant to § 2.2-2362.

263 20. Provide funding for collaborative public-private initiatives for the promotion and development of
 264 advanced manufacturing in the Commonwealth.

265 21. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

266 **§ 2.2-2356. Reporting requirements.**

267 No later than December 1, the Consortium and the Chief Executive Officer shall report annually to
 268 the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on
 269 Science and Technology, the Senate Committee on Finance, and the Senate Committee on General Laws
 270 and Technology, regarding a review of the Consortium's initiatives and projects, its work plan for the
 271 year and the expected results therefrom, and an overview of the results that it has achieved to date, to
 272 assist the Commonwealth in its effort to stimulate, encourage, and promote the development of
 273 technology and science in the Commonwealth and sound public policies related thereto.

274 **§ 2.2-2357. Nonstock corporation to assist the Consortium.**

275 A. The Board may establish nonprofit, nonstock corporations under Chapter 10 (§ 13.1-801 et seq.)
 276 of Title 13.1 as public instrumentalities exercising public and essential governmental functions to assist
 277 the Board and Consortium in carrying out the purposes of this article. The board of directors of any
 278 such nonstock corporation shall consist of the 13 members of the Board. The articles of incorporation of
 279 any such nonstock corporation shall provide that upon dissolution the net assets of the corporation shall
 280 be transferred to the Commonwealth. Any such nonstock corporation shall ensure that the economic
 281 benefits attributable to the income and property rights arising from any transactions in which the
 282 nonstock corporation is involved are allocated on a basis that is equitable in the good faith business
 283 judgment of the board of directors, with due account being given to the interest of the citizens of the
 284 Commonwealth and the needs of the nonstock corporation. Any such nonstock corporation shall not be
 285 deemed to be a state or governmental agency, advisory agency, public body, or agency or
 286 instrumentality for purposes of Chapters 8 (§ 2.2-800 et seq.), 18 (§ 2.2-1800 et seq.), 24 (§ 2.2-2400 et
 287 seq.), 29 (§ 2.2-2900 et seq.), 31 (§ 2.2-3100 et seq.), 37 (§ 2.2-3700 et seq.), 38 (§ 2.2-3800 et seq.), 43
 288 (§ 2.2-4300 et seq.), 44 (§ 2.2-4400 et seq.), 45 (§ 2.2-4500 et seq.), 46 (§ 2.2-4600 et seq.), and 47
 289 (§ 2.2-4700 et seq.), Chapter 14 (§ 30-130 et seq.) of Title 30, or Chapter 1 (§ 51.1-124.1 et seq.) of
 290 Title 51.1. No director, officer, or employee of any such nonstock corporation or entity shall be deemed
 291 to be an officer or employee for purposes of Chapter 31 (§ 2.2-3100 et seq.). Notwithstanding the
 292 foregoing, the Auditor of Public Accounts, or his legally authorized representatives, shall annually audit
 293 the financial accounts of the Authority and any such nonstock corporation entity, provided that the
 294 working papers and files of the Auditor of Public Accounts relating to such audits shall not be subject
 295 to the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

296 B. Notwithstanding the provisions of subsection A, as an entity receiving state funds, any such
 297 nonstock corporation shall be subject to periodic external review either (i) under the provisions of the
 298 Legislative Program Review and Evaluation Act (§ 30-64 et seq.) or (ii) by an entity appointed for that
 299 purpose by the Governor. Any such nonstock corporation shall be deemed to be an institution of higher
 300 education within the meaning of §§ 23.1-101 and 23.1-103, but only for the limited purposes therein
 301 stated.

302 **§ 2.2-2358. Division of Grants.**

303 A. Within the Consortium shall be created a Division of Grants, which shall be responsible for
 304 managing the solicitation, review, and selection of proposals for grants and loans from the Fund, and
 305 any other responsibilities assigned by the Board or the chief executive officer.

306 *B. The Division shall develop, in consultation with the Council and subject to approval by the*
 307 *Board, guidelines, procedures, and criteria for (i) the application for grants and loans from the Fund;*
 308 *(ii) the review, certification of scientific merits, and scoring or prioritization of applications for grants*
 309 *and loans from the Fund; and (iii) the evaluation, recommendation, and approval of grants and loans*
 310 *from the Fund. The guidelines, procedures, and criteria shall include requirements that applicants*
 311 *demonstrate and the Consortium and the Board consider:*

312 *1. Other grants, awards, loans, or funds awarded to the proposed program or project by the*
 313 *Commonwealth;*

314 *2. Other applications from the applicant for state grants, awards, loans, or funds currently pending*
 315 *at the time of the application; and*

316 *3. The potential of the program or project for which a grant or loan is sought to (i) culminate in the*
 317 *commercialization of research; (ii) culminate in the formation or spin-off of technology-based*
 318 *companies; (iii) promote the build-out of scientific areas of expertise in science and technology; (iv)*
 319 *promote applied research and development in the areas of focus identified in the Roadmap; (v) provide*
 320 *modern facilities or infrastructure for research and development; (vi) result in significant capital*
 321 *investment and job creation; or (vii) promote collaboration among the public institutions of higher*
 322 *education.*

323 *C. The Division shall forward any application for a grant or loan from the Fund to an entity with*
 324 *recognized science and technology expertise for a review and certification of the scientific merits of the*
 325 *proposal, including a scoring or prioritization of applicant programs and projects deemed viable by the*
 326 *reviewing entity. Such entities include the Council; the Virginia Biosciences Health Research*
 327 *Corporation; the Virginia Academy of Science, Engineering and Medicine; or any other entity deemed*
 328 *appropriate by the Division or Consortium, including a scientific advisory committee created by the*
 329 *Consortium for the sole purpose of reviewing one or more applications received pursuant to this article.*

330 *D. Notwithstanding the guidelines, procedures, and criteria developed pursuant to subsection B, the*
 331 *Division shall recommend, subject to approval by the Board, the amount, if any, of money available in*
 332 *the Fund, that should be reserved and allocated for:*

333 *1. Collaborative grant funding for the Commonwealth Center for Advanced Manufacturing; and*

334 *2. The Virginia Biosciences Health Research Corporation to award through its program.*

335 **§ 2.2-2359. Division of Entrepreneurship.**

336 *Within the Consortium shall be created a Division of Entrepreneurship, which shall be responsible*
 337 *for managing the Entrepreneurship-in-Residence program, and any other responsibilities assigned by the*
 338 *Board or the chief executive officer.*

339 **§ 2.2-2360. Commonwealth Research and Technology Strategic Roadmap.**

340 *A. The Consortium shall develop, in consultation with the Council and subject to approval by the*
 341 *Board, a Commonwealth Research and Technology Strategic Roadmap, a comprehensive research and*
 342 *technology strategic roadmap for the Commonwealth to identify research areas worthy of economic*
 343 *development and institutional focus. The goal of the Roadmap shall be to develop a cohesive and*
 344 *comprehensive framework through which to encourage collaboration between the Commonwealth's*
 345 *institutions of higher education, private sector industries, and economic development entities in order to*
 346 *focus on the complete life cycle of research, development, and commercialization. The framework shall*
 347 *serve as a means to (i) identify the Commonwealth's key industry sectors in which investments in*
 348 *technology should be made by the Commonwealth; (ii) identify basic and applied research opportunities*
 349 *in these sectors that exhibit commercial promise; (iii) encourage commercialization and economic*
 350 *development activities in the Commonwealth in these sectors; and (iv) help ensure that all investments of*
 351 *public funds in the Commonwealth in basic and applied research are made prudently in focused areas*
 352 *for projects with significant potential for commercialization and economic growth in the Commonwealth.*

353 *B. The Roadmap shall be used to determine areas of focus for grants, loans, and investments by the*
 354 *Consortium pursuant to this article. Awards from such funds may be made for research activities related*
 355 *to areas of focus other than those identified in the Roadmap only upon a written finding by Board that*
 356 *it is in the Commonwealth's best interest to deviate from the areas set forth in the Roadmap.*

357 *C. In developing the Roadmap, the Consortium shall:*

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

360 *2. Consult with public institutions of higher education in the Commonwealth, the Virginia Economic*
 361 *Development Partnership, and any other entity deemed relevant to catalog the Commonwealth's assets in*
 362 *order to identify the areas of research and development in which the Commonwealth has a great*
 363 *likelihood of excelling in applied research and commercialization;*

364 *3. Make recommendations for the alignment of research and development and economic growth in*
 365 *the Commonwealth, identifying the industry sectors in which the Commonwealth should focus its*
 366 *research, development, investment, and economic development efforts;*

367 *4. Establish a process for maintaining an inventory of the Commonwealth's current research and*

368 development endeavors in both the public and private sectors that can be used to attract research and
 369 commercialization excellence in the Commonwealth;

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

373 6. Solicit feedback from public and private institutions of higher education in the Commonwealth;
 374 members of the National Academies of Sciences, Engineering and Medicine; members of the Virginia
 375 Academy of Science, Engineering, and Medicine; federal research and development assets in the
 376 Commonwealth; regional technology councils in the Commonwealth; the Virginia Economic
 377 Development Partnership; the Virginia Growth and Opportunity Board; and the private sector.

378 D. The Consortium shall, in consultation with the Council, review the Roadmap and make
 379 recommendations regarding its update at least once every three years. Such recommended updates shall
 380 be submitted to the Board for review and approval.

381 E. The Consortium shall submit a draft of the Roadmap to the Governor and the Chairmen of the
 382 Senate Committee on Finance, the House Committee on Appropriations, and the Joint Commission on
 383 Technology and Science at least 30 days prior to the Board voting to approve the Roadmap or any
 384 subsequent updates. Upon final approval, the Consortium shall submit the approved Roadmap, and any
 385 subsequent updates, to the Chairmen of the Senate Committee on Finance, the House Committee on
 386 Appropriations, and the Joint Commission on Technology and Science.

387 **§ 2.2-2361. Virginia Research and Technology Advisory Council.**

388 A. The Consortium shall be advised by the Virginia Research and Technology Advisory Council. The
 389 Council shall be administered by the Consortium and consist of 10 members as follows: four
 390 vice-provosts of research at major state institutions of higher education, the president and chief
 391 executive officer of the Virginia Economic Development Partnership, and five citizen members appointed
 392 as follows: (i) the Speaker of the House of Delegates shall appoint one citizen who shall have
 393 experience in financing emerging technology businesses and one citizen who shall be a representative of
 394 an engineering firm, (ii) the Senate Committee on Rules shall appoint one citizen who shall be a
 395 representative of an engineering firm and one citizen who shall represent an independent or federal
 396 research facility in the Commonwealth, and (iii) the Governor shall appoint one citizen who shall
 397 represent a technology company with significant operations in the Commonwealth. The President and
 398 chief executive officer shall serve *ex officio* with voting privileges. All other members of the Council
 399 shall be appointed for terms of four years, and may be appointed for successive terms.

400 B. The Council shall (i) assist the Consortium with the development and maintenance of the
 401 Roadmap, (ii) work collaboratively with the Division of Grants, and (iii) perform other duties and
 402 responsibilities as may be assigned by the Board.

403 **§ 2.2-2362. Investment Advisory Committee.**

404 A. To assist the Board, Consortium, and any nonstock entity established by the Board pursuant to
 405 § 2.2-2357 in fulfilling its fiduciary duty as trustee of funds established pursuant to this chapter, the
 406 Board shall appoint an Investment Advisory Committee to provide sophisticated, objective, and prudent
 407 investment advice. The Investment Advisory Committee shall consist of as many members as the Board
 408 deems appropriate, and each member appointed shall require a two-thirds vote of the Board.

409 B. No elected or appointed person shall serve on the Investment Advisory Committee.

410 C. The disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government
 411 Conflict of Interests Act shall apply to members of the Investment Advisory Committee.

412 D. Members of the Investment Advisory Committee shall demonstrate extensive experience in any one
 413 or more of the following areas: venture capital investment, angel investment, domestic or international
 414 equity, cash management, alternative investment, seed-stage investment funding, or other related areas
 415 of expertise identified by the Board.

416 E. The Investment Advisory Committee shall (i) review, evaluate, and monitor investments and
 417 investment opportunities; (ii) make appropriate recommendations to the Board about investments and
 418 investment opportunities; and (iii) make recommendations to the Board about asset allocation.

419 **§ 2.2-2363. Commonwealth Research Consortium Fund.**

420 A. There is hereby created in the state treasury a special nonreverting revolving fund to be known as
 421 the Commonwealth Research Consortium Fund. The Fund shall be established on the books of the
 422 Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other
 423 sources public or private, shall be paid into the state treasury and credited to the Fund. Interest and
 424 other income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund,
 425 including interest and other income thereon, at the end of each fiscal year shall not revert to the
 426 general fund but shall remain in the Fund.

427 B. 1. Notwithstanding any other provision of law, the General Assembly may specifically designate
 428 that certain moneys appropriated to the Fund be invested, reinvested, and managed by the Board of

429 Trustees as provided in § 51.1-124.38. The State Treasurer shall not be held liable for losses suffered by
 430 the Virginia Retirement System on investments made under the authority of this subsection.

431 2. No more than \$4 million of moneys so invested, net of any administrative fee assessed pursuant to
 432 subsection E of § 51.1-124.38, may be awarded through grants or loans in a fiscal year for any purpose
 433 permitted by this article. At the direction of the Committee, the State Comptroller may annually request
 434 a disbursement of \$4 million from the moneys invested by the Board of Trustees, to be held with other
 435 moneys in the Fund not subject to such investment. At the end of each fiscal year, if less than \$4 million
 436 of such annual allocation is awarded as grants or loans in a calendar year, the Comptroller shall
 437 return the remainder of the annual \$4 million allocation to the Board of Trustees for reinvestment
 438 pursuant to § 51.1-124.38.

439 3. Any loans awarded pursuant to this article shall be paid by the Comptroller from the \$4 million
 440 annual allocation set forth in subdivision 2. The recipient of a loan shall repay the loan pursuant to the
 441 terms set forth by the Committee. At the end of each fiscal year, the Comptroller shall return any
 442 repayments received from loan recipients to the Board of Trustees for reinvestment pursuant to
 443 § 51.1-124.38.

444 4. Moneys in the Fund may be used to pay administrative fees assessed by the Board of Trustees for
 445 its services in investing Fund moneys pursuant to § 51.1-124.38.

446 C. Moneys in the Fund shall be used for grants and loans to foster innovative and collaborative
 447 research, development, and commercialization efforts in the Commonwealth in projects and programs
 448 with a high potential for economic development and job creation opportunities; to position the
 449 Commonwealth as a national leader in science-based and technology-based research, development, and
 450 commercialization; to encourage cooperation and collaboration among public institutions of higher
 451 education, and with the private sector, in areas and with activities that foster economic development and
 452 job creation in the Commonwealth; and to attract and effectively recruit and retain eminent researchers
 453 to enhance research superiority at public institutions of higher education. Grants and loans from the
 454 Fund shall be awarded in areas of focus identified in the Roadmap.

455 D. The solicitation, application, and award process for grants and loans from the fund shall be
 456 governed by the guidelines developed pursuant to § 2.2-2358.

457 E. The disbursement of grants and loans and the payment of administrative costs and service fees
 458 from the Fund shall be made by the State Comptroller at the written request of the Board.

459 **§ 2.2-2364. Grants or loans of public or private funds.**

460 The Consortium may accept, receive, receipt for, disburse, and expend federal and state moneys and
 461 other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish,
 462 in whole or in part, any of the purposes of this article. All federal moneys accepted under this section
 463 shall be accepted and expended by the Consortium upon such terms and conditions as are prescribed by
 464 the United States and as are consistent with state law; and all state moneys accepted under this section
 465 shall be accepted and expended by the Consortium upon such terms and conditions as are prescribed by
 466 the Commonwealth.

467 **§ 2.2-2365. Moneys of Consortium; examination of books by the Auditor of Public Accounts.**

468 All moneys of the Consortium, from whatever source derived, shall be paid to the treasurer of the
 469 Consortium. Such moneys shall be deposited in the first instance by the treasurer in one or more banks
 470 or trust companies, in one or more special accounts. All banks and trust companies are authorized to
 471 give such security for such deposits, if required by the Consortium. The moneys in such accounts shall
 472 be paid out on the warrant or other order of the treasurer of the Consortium or of other persons as the
 473 Consortium may authorize to execute such warrants or orders. The Auditor of Public Accounts or his
 474 legally authorized representatives shall examine the accounts and books of the Consortium.

475 **§ 2.2-2366. Exemption from taxes or assessments.**

476 The exercise of the powers granted by this article shall be in all respects for the benefit of the
 477 people of the Commonwealth, for the increase of their commerce and prosperity, and for the
 478 improvement of their health and living conditions, and as the operation and maintenance of projects by
 479 the Consortium and the undertaking of activities in furtherance of the purpose of the Consortium
 480 constitute the performance of essential governmental functions, the Consortium shall not be required to
 481 pay any taxes or assessments upon any project or any property acquired or used by the Consortium
 482 under the provisions of this article or upon the income therefrom, including sales and use taxes on
 483 tangible personal property used in the operations of the Consortium, and shall at all times be free from
 484 state and local taxation. The exemption granted in this section shall not be construed to extend to
 485 persons conducting on the premises of a facility businesses for which local or state taxes would
 486 otherwise be required.

487 **§ 2.2-2367. Exemption of Consortium from personnel and procurement procedures.**

488 The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public
 489 Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Consortium in the exercise of any power
 490 conferred under this article.

491 § 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

492 The following information contained in a public record is excluded from the mandatory disclosure
493 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such
494 disclosure is prohibited by law. Redaction of information excluded under this section from a public
495 record shall be conducted in accordance with § 2.2-3704.01.

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

498 2. Financial statements not publicly available filed with applications for industrial development
499 financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

500 3. Proprietary information, voluntarily provided by private business pursuant to a promise of
501 confidentiality from a public body, used by the public body for business, trade, and tourism
502 development or retention; and memoranda, working papers, or other information related to businesses
503 that are considering locating or expanding in Virginia, prepared by a public body, where competition or
504 bargaining is involved and where disclosure of such information would adversely affect the financial
505 interest of the public body.

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

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

510 6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections
511 provided to the Department of Rail and Public Transportation, provided such information is exempt
512 under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws
513 administered by the Surface Transportation Board or the Federal Railroad Administration with respect to
514 data provided in confidence to the Surface Transportation Board and the Federal Railroad
515 Administration.

516 7. Proprietary information related to inventory and sales, voluntarily provided by private energy
517 suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy
518 contingency planning purposes or for developing consolidated statistical information on energy supplies.

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

522 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and
523 cost projections provided by a private transportation business to the Virginia Department of
524 Transportation and the Department of Rail and Public Transportation for the purpose of conducting
525 transportation studies needed to obtain grants or other financial assistance under the Transportation
526 Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such
527 information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce
528 Act or other laws administered by the Surface Transportation Board or the Federal Railroad
529 Administration with respect to data provided in confidence to the Surface Transportation Board and the
530 Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to
531 any wholly owned subsidiary of a public body.

532 10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or
533 proprietary information by any person in connection with a procurement transaction or by any person
534 who has submitted to a public body an application for prequalification to bid on public construction
535 projects in accordance with subsection B of § 2.2-4317.

536 11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity,
537 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed
538 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private
539 Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information
540 was made public prior to or after the execution of an interim or a comprehensive agreement,
541 § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public
542 entity would be adversely affected and (ii) the basis for the determination required in clause (i) is
543 documented in writing by the responsible public entity; and

544 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or
545 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995
546 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002
547 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity
548 as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private
549 entity, including balance sheets and financial statements, that are not generally available to the public
550 through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity
551 where if such information was made public prior to the execution of an interim agreement or a

552 comprehensive agreement, the financial interest or bargaining position of the public or private entity
553 would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be
554 excluded from the provisions of this chapter, the private entity shall make a written request to the
555 responsible public entity:

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

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

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

560 The responsible public entity shall determine whether the requested exclusion from disclosure is
561 necessary to protect the trade secrets or financial information of the private entity. To protect other
562 information submitted by the private entity from disclosure, the responsible public entity shall determine
563 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement
564 would adversely affect the financial interest or bargaining position of the public or private entity. The
565 responsible public entity shall make a written determination of the nature and scope of the protection to
566 be afforded by the responsible public entity under this subdivision. Once a written determination is made
567 by the responsible public entity, the information afforded protection under this subdivision shall continue
568 to be protected from disclosure when in the possession of any affected jurisdiction or affected local
569 jurisdiction.

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

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

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

587 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential
588 proprietary information that is not generally available to the public through regulatory disclosure or
589 otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21
590 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of
591 confidentiality from the franchising authority, to the extent the information relates to the bidder's,
592 applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies
593 or implementation of improvements, where such new services, technologies, or improvements have not
594 been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such
595 information were made public, the competitive advantage or financial interests of the franchisee would
596 be adversely affected.

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

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

605 14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of
606 charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to
607 subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming
608 Board related to approval of electronic and mechanical equipment.

609 15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board
610 pursuant to § 3.2-1215.

611 16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1,
612 submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost
613 Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless

614 E-911 service.

615 17. Information relating to a grant or loan application, or accompanying a grant or loan application,
616 to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.)
617 of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3
618 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary
619 business or research-related information produced or collected by the applicant in the conduct of or as a
620 result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly
621 issues, when such information has not been publicly released, published, copyrighted, or patented, and
622 (ii) be harmful to the competitive position of the applicant.

623 18. Confidential proprietary information and trade secrets developed and held by a local public body
624 (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television
625 services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such
626 information would be harmful to the competitive position of the locality.

627 In order for confidential proprietary information or trade secrets to be excluded from the provisions
628 of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify
629 with specificity the information for which protection is sought, and (c) state the reasons why protection
630 is necessary. However, the exemption provided by this subdivision shall not apply to any authority
631 created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

632 19. Confidential proprietary information and trade secrets developed by or for a local authority
633 created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to
634 provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of
635 Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive
636 position of the authority, except that information required to be maintained in accordance with
637 § 15.2-2160 shall be released.

638 20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial
639 information of a business, including balance sheets and financial statements, that are not generally
640 available to the public through regulatory disclosure or otherwise, provided to the Department of Small
641 Business and Supplier Diversity as part of an application for certification as a small, women-owned, or
642 minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade
643 secrets or financial information to be excluded from the provisions of this chapter, the business shall (i)
644 invoke such exclusion upon submission of the data or other materials for which protection from
645 disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state
646 the reasons why protection is necessary.

647 21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health
648 Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

649 22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but
650 not limited to, financial information, including balance sheets and financial statements, that are not
651 generally available to the public through regulatory disclosure or otherwise, and revenue and cost
652 projections supplied by a private or nongovernmental entity to the State Inspector General for the
653 purpose of an audit, special investigation, or any study requested by the Office of the State Inspector
654 General in accordance with law.

655 In order for the information specified in this subdivision to be excluded from the provisions of this
656 chapter, the private or nongovernmental entity shall make a written request to the State Inspector
657 General:

- 658 a. Invoking such exclusion upon submission of the data or other materials for which protection from
659 disclosure is sought;
- 660 b. Identifying with specificity the data or other materials for which protection is sought; and
- 661 c. Stating the reasons why protection is necessary.

662 The State Inspector General shall determine whether the requested exclusion from disclosure is
663 necessary to protect the trade secrets or financial information of the private entity. The State Inspector
664 General shall make a written determination of the nature and scope of the protection to be afforded by it
665 under this subdivision.

666 23. Information relating to a grant application, or accompanying a grant application, submitted to the
667 Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the
668 Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not
669 a public body, including balance sheets and financial statements, that are not generally available to the
670 public through regulatory disclosure or otherwise, or (c) research-related information produced or
671 collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative,
672 scientific, technical, technological, or scholarly issues, when such information has not been publicly
673 released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the
674 applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its

675 staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision
 676 shall apply to grants that are consistent with the powers of and in furtherance of the performance of the
 677 duties of the Commission pursuant to § 3.2-3103.

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

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

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

684 c. Stating the reasons why protection is necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

731 c. Stating the reasons why protection is necessary.

732 28. Information relating to a grant or loan application, or accompanying a grant or loan application,
 733 submitted to the ~~Virginia Research Investment Committee~~ *Commonwealth of Virginia Research*
 734 *Consortium Authority (the Consortium)* established pursuant to Article 8 (~~§ 23.1-3130 et seq.~~) of Chapter
 735 ~~34 of Title 23.1 11~~ (~~§ 2.2-2351 et seq.~~) of Chapter 22, *an advisory committee of the Consortium, or*
 736 *other entity designated by the Consortium to review such applications*, to the extent that such records

737 would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b)
 738 financial information of a party to a grant or loan application that is not a public body, including
 739 balance sheets and financial statements, that are not generally available to the public through regulatory
 740 disclosure or otherwise; or (c) research-related information produced or collected by a party to the
 741 application in the conduct of or as a result of study or research on medical, rehabilitative, scientific,
 742 technical, technological, or scholarly issues, when such information has not been publicly released,
 743 published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant
 744 or loan application; and memoranda, staff evaluations, or other information prepared by the ~~Committee~~
 745 *Consortium, an advisory committee of the Consortium, other entity designated by the Consortium to*
 746 *review applications, or its staff; or a reviewing entity pursuant to subsection D of § 23.1-3133,*
 747 *exclusively for the evaluation of grant or loan applications, including any scoring or prioritization*
 748 *documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.*

749 In order for the information submitted by the applicant and specified in this subdivision to be
 750 excluded from the provisions of this chapter, the applicant shall make a written request to the
 751 Committee:

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

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

756 c. Stating the reasons why protection is necessary.

757 The Virginia Research Investment Committee shall determine whether the requested exclusion from
 758 disclosure is necessary to protect the trade secrets, financial information, or research-related information
 759 of the party to the application. The Committee shall make a written determination of the nature and
 760 scope of the protection to be afforded by it under this subdivision.

761 29. Proprietary information, voluntarily provided by a private business pursuant to a promise of
 762 confidentiality from a public body, used by the public body for a solar services agreement, where
 763 disclosure of such information would (i) reveal (a) trade secrets of the private business as defined in the
 764 Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private business,
 765 including balance sheets and financial statements, that are not generally available to the public through
 766 regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii)
 767 adversely affect the financial interest or bargaining position of the public body or private business.

768 In order for the information specified in clauses (i) (a), (b), and (c) to be excluded from the
 769 provisions of this chapter, the private business shall make a written request to the public body:

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

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

773 c. Stating the reasons why protection is necessary.

774 30. Information contained in engineering and construction drawings and plans submitted for the sole
 775 purpose of complying with the Building Code in obtaining a building permit if disclosure of such
 776 information would identify specific trade secrets or other information that would be harmful to the
 777 competitive position of the owner or lessee. However, such information shall be exempt only until the
 778 building is completed. Information relating to the safety or environmental soundness of any building
 779 shall not be exempt from disclosure.

780 31. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but
 781 not limited to, financial information, including balance sheets and financial statements that are not
 782 generally available to the public through regulatory disclosure or otherwise, and revenue and cost
 783 projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation
 784 for the purpose of an audit, special investigation, or any study requested by the Virginia Department of
 785 Transportation in accordance with law.

786 In order for the records specified in this subdivision to be excluded from the provisions of this
 787 chapter, the private or nongovernmental entity shall make a written request to the Department:

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

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

791 c. Stating the reasons why protection is necessary.

792 The Virginia Department of Transportation shall determine whether the requested exclusion from
 793 disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia
 794 Department of Transportation shall make a written determination of the nature and scope of the
 795 protection to be afforded by it under this subdivision.

796 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**
 797 **other limited exclusions.**

798 The following information contained in a public record is excluded from the mandatory disclosure
799 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such
800 disclosure is prohibited by law. Redaction of information excluded under this section from a public
801 record shall be conducted in accordance with § 2.2-3704.01.

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

804 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or
805 the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
806 Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any
807 political subdivision of the Commonwealth; or the president or other chief executive officer of any
808 public institution of higher education in the Commonwealth. However, no information that is otherwise
809 open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been
810 attached to or incorporated within any working paper or correspondence. Further, information publicly
811 available or not otherwise subject to an exclusion under this chapter or other provision of law that has
812 been aggregated, combined, or changed in format without substantive analysis or revision shall not be
813 deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of
814 any resumes or applications submitted by persons who are appointed by the Governor pursuant to
815 § 2.2-106 or 2.2-107.

816 As used in this subdivision:

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

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

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

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

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

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

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

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

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

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

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

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

868 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local
 869 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a
 870 trust established by one or more local public bodies to invest funds for post-retirement benefits other
 871 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the
 872 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of
 873 visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the
 874 Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or
 875 disposition of a security or other ownership interest in an entity, where such security or ownership
 876 interest is not traded on a governmentally regulated securities exchange, if disclosure of such
 877 information would (i) reveal confidential analyses prepared for the board of visitors of the University of
 878 Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared
 879 by the retirement system, a local finance board or board of trustees, or the Virginia College Savings
 880 Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia
 881 College Savings Plan under a promise of confidentiality of the future value of such ownership interest or
 882 the future financial performance of the entity and (ii) have an adverse effect on the value of the
 883 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board
 884 of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of
 885 William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
 886 construed to prevent the disclosure of information relating to the identity of any investment held, the
 887 amount invested, or the present value of such investment.

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

891 14. Information held by the Virginia Commonwealth University Health System Authority pertaining
 892 to any of the following: an individual's qualifications for or continued membership on its medical or
 893 teaching staffs; proprietary information gathered by or in the possession of the Authority from third
 894 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
 895 awarding contracts for construction or the purchase of goods or services; information of a proprietary
 896 nature produced or collected by or for the Authority or members of its medical or teaching staffs;
 897 financial statements not publicly available that may be filed with the Authority from third parties; the
 898 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid
 899 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
 900 determination of marketing and operational strategies where disclosure of such strategies would be
 901 harmful to the competitive position of the Authority; and information of a proprietary nature produced
 902 or collected by or for employees of the Authority, other than the Authority's financial or administrative
 903 records, in the conduct of or as a result of study or research on medical, scientific, technical, or
 904 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body
 905 or a private concern, when such information has not been publicly released, published, copyrighted, or
 906 patented. This exclusion shall also apply when such information is in the possession of Virginia
 907 Commonwealth University.

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

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

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

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

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

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

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

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

954 23. Information held by the Judicial Inquiry and Review Commission made confidential by
955 § 17.1-913.

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

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

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

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

970 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which
971 protection from disclosure is sought;

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

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

974 The retirement system or the Virginia College Savings Plan shall determine whether the requested
975 exclusion from disclosure meets the requirements set forth in subdivision b.

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

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

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

982 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident

983 Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers,
984 except that access shall not be denied to the person who is the subject of the information.

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

996 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the
997 training of state prosecutors or law-enforcement personnel, where such information is not otherwise
998 available to the public and the disclosure of such information would reveal confidential strategies,
999 methods, or procedures to be employed in law-enforcement activities or materials created for the
1000 investigation and prosecution of a criminal case.

1001 30. Information provided to the Department of Aviation by other entities of the Commonwealth in
1002 connection with the operation of aircraft where the information would not be subject to disclosure by the
1003 entity providing the information. The entity providing the information to the Department of Aviation
1004 shall identify the specific information to be protected and the applicable provision of this chapter that
1005 excludes the information from mandatory disclosure.

1006 31. Information created or maintained by or on the behalf of the judicial performance evaluation
1007 program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

1008 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are
1009 discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse
1010 or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams
1011 established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in
1012 statistical or other aggregated form that does not disclose the identity of specific individuals.

1013 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the
1014 Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target
1015 companies, specific allocation of resources and staff for marketing activities, and specific marketing
1016 activities that would reveal to the Commonwealth's competitors for economic development projects the
1017 strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial
1018 interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and
1019 operational plan shall not be redacted or withheld pursuant to this subdivision.

1020 34. *Information held by the Commonwealth of Virginia Research Consortium Authority (the*
1021 *Consortium), or an advisory committee of the Consortium, relating to (i) internal deliberations of or*
1022 *decisions by the Consortium on the pursuit of particular investment strategies prior to the execution of*
1023 *such investment strategies; and (ii) trade secrets, as defined in the Uniform Trade Secrets Act*
1024 *(§ 59.1-336 et seq.), provided by a private entity to the Consortium, if such disclosure of records*
1025 *pursuant to to clauses (i) or (ii) would have an adverse impact on the financial interest of the*
1026 *Consortium.*

1027 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

1028 A. Public bodies may hold closed meetings only for the following purposes:

1029 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
1030 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
1031 officers, appointees, or employees of any public body; and evaluation of performance of departments or
1032 schools of public institutions of higher education where such evaluation will necessarily involve
1033 discussion of the performance of specific individuals. Any teacher shall be permitted to be present
1034 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that
1035 involves the teacher and some student and the student involved in the matter is present, provided the
1036 teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing
1037 in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body
1038 or an elected school board to discuss compensation matters that affect the membership of such body or
1039 board collectively.

1040 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
1041 involve the disclosure of information contained in a scholastic record concerning any student of any
1042 public institution of higher education in the Commonwealth or any state school system. However, any
1043 such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall

1044 be permitted to be present during the taking of testimony or presentation of evidence at a closed
1045 meeting, if such student, parents, or guardians so request in writing and such request is submitted to the
1046 presiding officer of the appropriate board.

1047 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
1048 disposition of publicly held real property, where discussion in an open meeting would adversely affect
1049 the bargaining position or negotiating strategy of the public body.

1050 4. The protection of the privacy of individuals in personal matters not related to public business.

1051 5. Discussion concerning a prospective business or industry or the expansion of an existing business
1052 or industry where no previous announcement has been made of the business' or industry's interest in
1053 locating or expanding its facilities in the community.

1054 6. Discussion or consideration of the investment of public funds where competition or bargaining is
1055 involved, where, if made public initially, the financial interest of the governmental unit would be
1056 adversely affected.

1057 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
1058 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
1059 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable
1060 litigation" means litigation that has been specifically threatened or on which the public body or its legal
1061 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in
1062 this subdivision shall be construed to permit the closure of a meeting merely because an attorney
1063 representing the public body is in attendance or is consulted on a matter.

1064 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
1065 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
1066 construed to permit the closure of a meeting merely because an attorney representing the public body is
1067 in attendance or is consulted on a matter.

1068 9. Discussion or consideration by governing boards of public institutions of higher education of
1069 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
1070 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
1071 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
1072 accepted by a public institution of higher education in the Commonwealth shall be subject to public
1073 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
1074 (i) "foreign government" means any government other than the United States government or the
1075 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
1076 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
1077 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
1078 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
1079 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
1080 citizen or national of the United States or a trust territory or protectorate thereof.

1081 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
1082 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of
1083 Virginia of matters relating to specific gifts, bequests, and grants from private sources.

1084 11. Discussion or consideration of honorary degrees or special awards.

1085 12. Discussion or consideration of tests, examinations, or other information used, administered, or
1086 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

1087 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
1088 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
1089 filed by the member, provided the member may request in writing that the committee meeting not be
1090 conducted in a closed meeting.

1091 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
1092 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
1093 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating
1094 position of the governing body or the establishment of the terms, conditions and provisions of the siting
1095 agreement, or both. All discussions with the applicant or its representatives may be conducted in a
1096 closed meeting.

1097 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
1098 activity and estimating general and nongeneral fund revenues.

1099 16. Discussion or consideration of medical and mental health records subject to the exclusion in
1100 subdivision 1 of § 2.2-3705.5.

1101 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
1102 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
1103 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
1104 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
1105 and subdivision 11 of § 2.2-3705.7.

1106 18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
1107 of, or information tending to identify, any prisoner who (i) provides information about crimes or
1108 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
1109 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
1110 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

1111 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
1112 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
1113 or emergency service officials concerning actions taken to respond to such matters or a related threat to
1114 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,
1115 where discussion in an open meeting would jeopardize the safety of any person or the security of any
1116 facility, building, structure, information technology system, or software program; or discussion of reports
1117 or plans related to the security of any governmental facility, building or structure, or the safety of
1118 persons using such facility, building or structure.

1119 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
1120 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
1121 trustees of a trust established by one or more local public bodies to invest funds for postemployment
1122 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
1123 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
1124 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
1125 holding or disposition of a security or other ownership interest in an entity, where such security or
1126 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
1127 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
1128 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
1129 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
1130 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
1131 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
1132 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
1133 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
1134 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
1135 of information relating to the identity of any investment held, the amount invested or the present value
1136 of such investment.

1137 21. Those portions of meetings in which individual child death cases are discussed by the State Child
1138 Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which
1139 individual child death cases are discussed by a regional or local child fatality review team established
1140 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
1141 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
1142 which individual adult death cases are discussed by the state Adult Fatality Review Team established
1143 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
1144 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions
1145 of meetings in which individual death cases are discussed by overdose fatality review teams established
1146 pursuant to § 32.1-283.7.

1147 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
1148 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
1149 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
1150 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
1151 proprietary, business-related information pertaining to the operations of the University of Virginia
1152 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
1153 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
1154 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
1155 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
1156 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
1157 Medical School, as the case may be.

1158 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
1159 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
1160 disposition by the Authority of real property, equipment, or technology software or hardware and related
1161 goods or services, where disclosure would adversely affect the bargaining position or negotiating
1162 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
1163 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
1164 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
1165 affect the competitive position of the Authority; and members of the Authority's medical and teaching
1166 staffs and qualifications for appointments thereto.

1167 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
1168 the Department of Health Professions to the extent such discussions identify any practitioner who may
1169 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1170 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
1171 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
1172 by or on behalf of individuals who have requested information about, applied for, or entered into
1173 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)
1174 of Title 23.1 is discussed.

1175 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
1176 created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act
1177 (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of
1178 wireless E-911 service.

1179 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1180 Professional and Occupational Regulation, Department of Health Professions, or the Board of
1181 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
1182 a decision or meetings of health regulatory boards or conference committees of such boards to consider
1183 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
1184 requested by either of the parties.

1185 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
1186 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
1187 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
1188 responsible public entity concerning such records.

1189 29. Discussion of the award of a public contract involving the expenditure of public funds, including
1190 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
1191 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
1192 the public body.

1193 30. Discussion or consideration of grant or loan application information subject to the exclusion in
1194 subdivision 17 of § 2.2-3705.6 by ~~(i) the Commonwealth Health Research Board or~~ ~~(ii) the Innovation~~
1195 ~~and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory~~
1196 ~~Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.~~

1197 31. Discussion or consideration by the Commitment Review Committee of information subject to the
1198 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
1199 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1200 32. Discussion or consideration of confidential proprietary information and trade secrets developed
1201 and held by a local public body providing certain telecommunication services or cable television services
1202 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
1203 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
1204 seq.).

1205 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
1206 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
1207 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1208 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting
1209 security matters made confidential pursuant to § 24.2-625.1.

1210 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
1211 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative
1212 files subject to the exclusion in subdivision B 1 of § 2.2-3706.

1213 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
1214 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and
1215 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and
1216 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or
1217 recover scholarship awards.

1218 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion
1219 in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia
1220 Port Authority.

1221 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
1222 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
1223 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
1224 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment
1225 Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in
1226 subdivision 24 of § 2.2-3705.7.

1227 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
1228 § 2.2-3705.6 related to economic development.

- 1229 40. Discussion or consideration by the Board of Education of information relating to the denial,
 1230 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.
- 1231 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created
 1232 by executive order for the purpose of studying and making recommendations regarding preventing
 1233 closure or realignment of federal military and national security installations and facilities located in
 1234 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
 1235 appointed by a local governing body, during which there is discussion of information subject to the
 1236 exclusion in subdivision 8 of § 2.2-3705.2.
- 1237 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
 1238 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
 1239 information of donors.
- 1240 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
 1241 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information
 1242 contained in grant applications.
- 1243 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
 1244 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
 1245 charges for the use of projects of, the sale of products of, or services rendered by the Authority and
 1246 certain proprietary information of a private entity provided to the Authority.
- 1247 45. Discussion or consideration of personal and proprietary information related to the resource
 1248 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
 1249 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records
 1250 that contain information that has been certified for release by the person who is the subject of the
 1251 information or transformed into a statistical or aggregate form that does not allow identification of the
 1252 person who supplied, or is the subject of, the information.
- 1253 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
 1254 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to
 1255 investigations of applicants for licenses and permits and of licensees and permittees.
- 1256 47. Discussion or consideration of grant or loan application records subject to the exclusion in
 1257 subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the
 1258 Virginia Research Investment Fund pursuant to Article 8 (~~§ 23.1-3130 et seq.~~) of Chapter 31 of Title
 1259 ~~23.1~~ or interviews of parties to an application by a reviewing entity pursuant to subsection D of
 1260 ~~§ 23.1-3133~~ or by the Virginia Research Investment Committee for a grant or loan pursuant to Article
 1261 11 (~~§ 2.2-2351 et seq.~~) of Chapter 22.
- 1262 48. Discussion or development of grant proposals by a regional council established pursuant to
 1263 Article 26 (~~§ 2.2-2484 et seq.~~) of Chapter 24 to be submitted for consideration to the Virginia Growth
 1264 and Opportunity Board.
- 1265 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team
 1266 established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses
 1267 involving a child by a child abuse team established pursuant to § 15.2-1627.5.
- 1268 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
 1269 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
 1270 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
 1271 subdivision 33 of § 2.2-3705.7.
- 1272 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
 1273 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
 1274 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
 1275 § 60.2-114.
- 1276 52. *Discussion or consideration by the Board of the Commonwealth of Virginia Research Consortium*
 1277 *Authority (the Consortium), or an advisory committee of the Consortium, of information subject to the*
 1278 *exclusion in subdivision 34 of § 2.2-3705.7.*
- 1279 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
 1280 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
 1281 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
 1282 motion that shall have its substance reasonably identified in the open meeting.
- 1283 C. Public officers improperly selected due to the failure of the public body to comply with the other
 1284 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
 1285 obtain notice of the legal defect in their election.
- 1286 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
 1287 more public bodies, or their representatives, but these conferences shall be subject to the same
 1288 procedures for holding closed meetings as are applicable to any other public body.
- 1289 E. This section shall not be construed to (i) require the disclosure of any contract between the

1290 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
1291 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
1292 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
1293 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
1294 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
1295 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
1296 of such bonds.

1297 **§ 23.1-203. Duties of Council.**

1298 The Council shall:

1299 1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of
1300 § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5
1301 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state
1302 and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both
1303 the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of
1304 the existing institutions of higher education, each public institution's six-year plan, and such other
1305 matters as the Council deems appropriate. The Council shall revise such plan at least once every six
1306 years and shall submit such recommendations as are necessary for the implementation of the plan to the
1307 Governor and the General Assembly.

1308 2. Review and approve or disapprove any proposed change in the statement of mission of any public
1309 institution of higher education and define the mission of all newly created public institutions of higher
1310 education. The Council shall report such approvals, disapprovals, and definitions to the Governor and
1311 the General Assembly at least once every six years. No such actions shall become effective until 30
1312 days after adjournment of the session of the General Assembly next following the filing of such a
1313 report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission
1314 statement adopted by the General Assembly or empower the Council to affect, either directly or
1315 indirectly, the selection of faculty or the standards and criteria for admission of any public institution of
1316 higher education, whether relating to academic standards, residence, or other criteria. Faculty selection
1317 and student admission policies shall remain a function of the individual public institutions of higher
1318 education.

1319 3. Study any proposed escalation of any public institution of higher education to a degree-granting
1320 level higher than that level to which it is presently restricted and submit a report and recommendation to
1321 the Governor and the General Assembly relating to the proposal. The study shall include the need for
1322 and benefits or detriments to be derived from the escalation. No such institution shall implement any
1323 such proposed escalation until the Council's report and recommendation have been submitted to the
1324 General Assembly and the General Assembly approves the institution's proposal.

1325 4. Review and approve or disapprove all enrollment projections proposed by each public institution
1326 of higher education. The Council's projections shall be organized numerically by level of enrollment and
1327 shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop
1328 estimates of the number of degrees to be awarded by each public institution of higher education and
1329 include those estimates in its reports of enrollment projections. The student admissions policies for such
1330 institutions and their specific programs shall remain the sole responsibility of the individual governing
1331 boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies
1332 with comprehensive community colleges as required by § 23.1-907.

1333 5. Review and approve or disapprove all new undergraduate or graduate academic programs that any
1334 public institution of higher education proposes.

1335 6. Review and require the discontinuance of any undergraduate or graduate academic program that is
1336 presently offered by any public institution of higher education when the Council determines that such
1337 academic program is (i) nonproductive in terms of the number of degrees granted, the number of
1338 students served by the program, the program's effectiveness, and budgetary considerations or (ii)
1339 supported by state funds and unnecessarily duplicative of academic programs offered at other public
1340 institutions of higher education. The Council shall make a report to the Governor and the General
1341 Assembly with respect to the discontinuance of any such academic program. No such discontinuance
1342 shall become effective until 30 days after the adjournment of the session of the General Assembly next
1343 following the filing of such report.

1344 7. Review and approve or disapprove the establishment of any department, school, college, branch,
1345 division, or extension of any public institution of higher education that such institution proposes to
1346 establish, whether located on or off the main campus of such institution. If any organizational change is
1347 determined by the Council to be proposed solely for the purpose of internal management and the
1348 institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing
1349 in this subdivision shall be construed to authorize the Council to disapprove the establishment of any
1350 such department, school, college, branch, division, or extension established by the General Assembly.

1351 8. Review the proposed closure of any academic program in a high demand or critical shortage area,

1352 as defined by the Council, by any public institution of higher education and assist in the development of
 1353 an orderly closure plan, when needed.

1354 9. Develop a uniform, comprehensive data information system designed to gather all information
 1355 necessary to the performance of the Council's duties. The system shall include information on
 1356 admissions, enrollment, self-identified students with documented disabilities, personnel, programs,
 1357 financing, space inventory, facilities, and such other areas as the Council deems appropriate. When
 1358 consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.),
 1359 the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the
 1360 Council, acting solely or in partnership with the Virginia Department of Education or the Virginia
 1361 Employment Commission, may contract with private entities to create de-identified student records in
 1362 which all personally identifiable information has been removed for the purpose of assessing the
 1363 performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

1364 10. In cooperation with public institutions of higher education, develop guidelines for the assessment
 1365 of student achievement. Each such institution shall use an approved program that complies with the
 1366 guidelines of the Council and is consistent with the institution's mission and educational objectives in
 1367 the development of such assessment. The Council shall report each institution's assessment of student
 1368 achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

1369 11. In cooperation with the appropriate state financial and accounting officials, develop and establish
 1370 uniform standards and systems of accounting, recordkeeping, and statistical reporting for public
 1371 institutions of higher education.

1372 12. Review biennially and approve or disapprove all changes in the inventory of educational and
 1373 general space that any public institution of higher education proposes and report such approvals and
 1374 disapprovals to the Governor and the General Assembly. No such change shall become effective until 30
 1375 days after the adjournment of the session of the General Assembly next following the filing of such
 1376 report.

1377 13. Visit and study the operations of each public institution of higher education at such times as the
 1378 Council deems appropriate and conduct such other studies in the field of higher education as the Council
 1379 deems appropriate or as may be requested by the Governor or the General Assembly.

1380 14. Provide advisory services to each accredited nonprofit private institution of higher education
 1381 whose primary purpose is to provide collegiate or graduate education and not to provide religious
 1382 training or theological education on academic, administrative, financial, and space utilization matters.
 1383 The Council may review and advise on joint activities, including contracts for services between public
 1384 institutions of higher education and such private institutions of higher education or between such private
 1385 institutions of higher education and any agency or political subdivision of the Commonwealth.

1386 15. Adopt such policies and regulations as the Council deems necessary to implement its duties
 1387 established by state law. Each public institution of higher education shall comply with such policies and
 1388 regulations.

1389 16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and
 1390 Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's
 1391 academic and disciplinary record to a student's parent.

1392 17. Require each institution of higher education formed, chartered, or established in the
 1393 Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of
 1394 institutional closure or revocation of approval to operate in the Commonwealth. An institution may
 1395 ensure the preservation of student transcripts by binding agreement with another institution of higher
 1396 education with which it is not corporately connected or in such other way as the Council may authorize
 1397 by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth
 1398 revoked, the Council, through its director, may take such action as is necessary to secure and preserve
 1399 the student transcripts until such time as an appropriate institution accepts all or some of the transcripts.
 1400 Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts
 1401 or authorize disclosure of student records except as may otherwise be authorized by law.

1402 18. Require the development and submission of articulation, dual admissions, and guaranteed
 1403 admissions agreements between associate-degree-granting and baccalaureate public institutions of higher
 1404 education.

1405 19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee
 1406 Studying Higher Education Funding Policies for each public institution of higher education.

1407 20. Develop, pursuant to the provisions of § 23.1-907, guidelines for articulation, dual admissions,
 1408 and guaranteed admissions agreements, including guidelines related to a one-year Uniform Certificate of
 1409 General Studies Program and a one-semester Passport Program to be offered at each comprehensive
 1410 community college. The guidelines developed pursuant to this subdivision shall be developed in
 1411 consultation with all public institutions of higher education in the Commonwealth, the Department of
 1412 Education, and the Virginia Association of School Superintendents and shall ensure standardization,

1413 quality, and transparency in the implementation of the programs and agreements. At the discretion of the
 1414 Council, private institutions of higher education eligible for tuition assistance grants may also be
 1415 consulted.

1416 21. Cooperate with the Board of Education in matters of interest to both public elementary and
 1417 secondary schools and public institutions of higher education, particularly in connection with
 1418 coordination of the college admission requirements, coordination of teacher training programs with the
 1419 public school programs, and the Board of Education's Six-Year Educational Technology Plan for
 1420 Virginia. The Council shall encourage public institutions of higher education to design programs that
 1421 include the skills necessary for the successful implementation of such Plan.

1422 22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship
 1423 Committee in the implementation and administration of the Brown v. Board of Education Scholarship
 1424 Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

1425 23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments,
 1426 institutions, and agencies in carrying out its duties.

1427 24. Serve as the coordinating council for public institutions of higher education.

1428 25. Serve as the planning and coordinating agency for all postsecondary educational programs for all
 1429 health professions and occupations and make recommendations, including those relating to financing, for
 1430 providing adequate and coordinated educational programs to produce an appropriate supply of properly
 1431 trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the
 1432 requirements of this subdivision. All state departments and agencies shall cooperate with the Council in
 1433 the execution of its responsibilities under this subdivision.

1434 26. Carry out such duties as the Governor may assign to it in response to agency designations
 1435 requested by the federal government.

1436 27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each
 1437 public institution of higher education in carrying out its duties.

1438 28. Insofar as practicable, seek the assistance and advice of each public institution of higher
 1439 education in fulfilling its duties and responsibilities.

1440 29. ~~Develop the Commonwealth Research and Technology Strategic Roadmap pursuant to the~~
 1441 ~~provisions of § 23.1-3134 to be submitted to the Virginia Research Investment Committee for approval,~~
 1442 ~~and otherwise assist the Virginia Research Investment Committee with the administration of the Virginia~~
 1443 ~~Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter~~
 1444 ~~34.~~

1445 ~~30. Administer the Virginia Longitudinal Data System as a multiagency partnership for the purposes~~
 1446 ~~of developing educational, health, social service, and employment outcome data; improving the efficacy~~
 1447 ~~of state services; and aiding decision making.~~

1448 **§ 51.1-124.38. Investment of assets of the Commonwealth Research Consortium Fund.**

1449 A. In addition to such other powers as shall be vested in the Board, the Board shall have the full
 1450 power to invest, reinvest, and manage those portions of the ~~Virginia Research Investment~~
 1451 ~~Commonwealth Research Consortium Fund~~ (the Fund), established pursuant to ~~Article 8 (§ 23.1-3130 et~~
 1452 ~~seq.) of Chapter 34 of Title 23.1, § 2.2-2363 and~~ designated by the General Assembly for investment by
 1453 the Board pursuant to subsection B of § ~~23.1-3134~~ 2.2-2363. The Board shall maintain a separate
 1454 accounting for the assets of the Fund invested with it. The Board shall make an annual distribution of
 1455 such invested moneys to the Comptroller pursuant to subsection B of § ~~23.1-3134~~ 2.2-2363.

1456 B. The Board shall invest the assets of the Fund with the care, skill, prudence, and diligence under
 1457 the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such
 1458 matters would use in the conduct of an enterprise of a like character and with like aims. The Board
 1459 shall also diversify such investments so as to minimize the risk of large losses unless under the
 1460 circumstances it is clearly prudent not to do so.

1461 C. No officer, director, or member of the Board or of any advisory committee of the Retirement
 1462 System or any of its tax-exempt subsidiary corporations whose actions are within the standard of care
 1463 set forth in subsection B shall be held personally liable for losses suffered by the Retirement System on
 1464 investments made under the authority of this section.

1465 D. The provisions of §§ 51.1-124.32, 51.1-124.33, 51.1-124.34, and 51.1-124.35 shall apply to the
 1466 Board's activities with respect to moneys in the Fund.

1467 E. The Board may assess the ~~Virginia Research Investment Committee~~ *Commonwealth of Virginia*
 1468 *Research Consortium Authority* a reasonable administrative fee for its services.

1469 **2. That Article 3 (§§ 2.2-2218 through 2.2-2233.1) of Chapter 22 of Title 2.2 and Article 8**
 1470 **(§§ 23.1-3130 through 23.1-3134) of Chapter 31 of Title 23.1 of the Code of Virginia are repealed.**

1471 **3. That the initial appointments of nonlegislative citizen members to the board of directors of the**
 1472 **Commonwealth of Virginia Research Consortium Authority made in accordance with the**
 1473 **provisions of this act shall be staggered as follows: (i) of the Governor's appointments, one**
 1474 **member shall be appointed for a term of four years, one member shall be appointed for a term of**

1475 three years, one member shall be appointed for a term of two years, and one member shall be
 1476 appointed for a term of one year; and (ii) of the Joint Rules Committee's appointments, one
 1477 member shall be appointed for a term of four years, one member shall be appointed for a term of
 1478 three years, one member shall be appointed for a term of two years, and one member shall be
 1479 appointed for a term of one year. Any member appointed for an initial term of less than four
 1480 years shall be eligible to serve two additional full four-year terms.

1481 4. That the Research and Technology Investment Advisory Council is hereby continued as the
 1482 Virginia Research and Technology Advisory Council, created by this act at § 2.2-2362 of the Code
 1483 of Virginia. Any member currently appointed to the Research and Technology Investment
 1484 Advisory Council shall continue to serve out the term of his appointment as a member of the
 1485 Virginia Research and Technology Advisory Council.

1486 5. That any unobligated funds remaining in the Commonwealth Research Commercialization Fund
 1487 or the Virginia Research Investment Fund upon the effective date of this act shall be transferred
 1488 to the Commonwealth Research Consortium Fund. Any funds remaining in the Commonwealth
 1489 Growth Accelerator Program Fund upon the effective date of this act shall be transferred to the
 1490 Commonwealth of Virginia Research Consortium Authority.

1491 6. That as of the effective date of this act, the Commonwealth of Virginia Research Consortium
 1492 Authority (the Consortium) shall be deemed the successor in interest to the Virginia Research
 1493 Investment Committee and the Innovation and Entrepreneurship Investment Authority. Without
 1494 limiting the foregoing, all right, title, and interest in and to any real or tangible personal property
 1495 vested in the Virginia Research Investment Committee or the Innovation and Entrepreneurship
 1496 Investment Authority as of the effective date of this act shall be transferred to and taken as
 1497 standing in the name of the Consortium.

1498 7. That the Commonwealth of Virginia Research Consortium Authority (the Consortium) shall be
 1499 the successor in interest to any grants, loans, or investment funds currently administered by the
 1500 Innovation and Entrepreneurship Investment Authority, any entity controlled by the Innovation
 1501 and Entrepreneurship Investment Authority, or the Virginia Research Investment Committee. All
 1502 obligations, commitments, and contracts related to such grants, loans, or investment funds in place
 1503 on June 30, 2019, shall remain valid obligations of the Consortium.

1504 8. That the Center for Innovative Technology, as it exists on June 30, 2019, shall continue as a
 1505 nonprofit, nonstock corporation of the Commonwealth of Virginia Research Consortium Authority
 1506 (the Consortium) pursuant to § 2.2-2357 of the Code of Virginia as created by this act. The Center
 1507 for Innovative Technology shall continue to administer all programs currently in operation on
 1508 June 30, 2019, unless otherwise provided by the law. The Center for Innovative Technology shall
 1509 continue to administer, monitor, and evaluate the award of grants, loans, or investments prior to
 1510 July 1, 2019, from the Commonwealth Research Commercialization Fund and the Growth
 1511 Accelerator Program Fund, including the continuing oversight of reporting by grant, loan, and
 1512 investment recipients for a period of five years following the award of such grants, loans, or
 1513 investments, and the initiation of clawback proceedings when necessary related to any such grants,
 1514 loans, or investments. The Center for Innovative Technology shall also provide administrative and
 1515 support services to the Consortium until January 1, 2020, or until the Consortium is able to
 1516 provide such services.

1517 9. That the provisions of this act repealing § 23.1-3132 shall be effective July 1, 2020. The Virginia
 1518 Research Investment Committee shall assist in the transition of its responsibilities to the
 1519 Commonwealth of Virginia Research Consortium Authority (the Consortium) until such time as
 1520 the Board of the Consortium and an interim chief executive officer of the Consortium are
 1521 appointed, and perform any other functions as directed by law.

1522 9. That a stakeholder group shall convene to oversee the transition of responsibilities from the
 1523 Innovation and Entrepreneurship Investment Authority and the Virginia Research Investment
 1524 Committee to the Commonwealth of Virginia Research Consortium Authority (the Consortium).
 1525 The stakeholder group shall consist of eight members as follows: two citizen members of the
 1526 Virginia Research Investment Committee (the Committee), to be appointed by the Committee; the
 1527 staff director of the House Committee on Appropriations; one of the staff co-directors of the
 1528 Senate Committee on Finance; the president of the Virginia Biosciences Health Research
 1529 Corporation, the president of the Center for Innovative Technology, a member to be designated by
 1530 the Northern Virginia Technology Council, and the Secretary of Commerce and Trade. The
 1531 stakeholder group shall report to the Chairmen of the House Committee on Appropriations and
 1532 the Senate Committee on Finance no later than December 1, 2019, regarding the status of the
 1533 transition and any legislative recommendations regarding the structure, functions, or authority of
 1534 the Consortium. The convening of the stakeholder group shall not be deemed a meeting for
 1535 purposes of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) of the Code of Virginia.

1536 10. Notwithstanding any other provision of law, the Governor shall appoint an interim chief
1537 executive officer of the Commonwealth of Virginia Research Consortium Authority (the
1538 Consortium) based upon the recommendations of the stakeholder group convened pursuant to the
1539 ninth enactment of this act. Such interim chief executive officer shall be appointed for a term not
1540 to exceed one year to oversee the transition of responsibility from the Innovation and
1541 Entrepreneurship Investment Authority and the Virginia Research Investment Committee to the
1542 Consortium, after which the Board of the Consortium shall appoint a chief executive officer
1543 pursuant to § 2.2-2353 of the Code of Virginia.