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## HOUSE BILL NO. 1017

## FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Howell  
on February 28, 2020)

(Patron Prior to Substitute—Delegate Sickles)

A BILL to amend and reenact §§ 2.2-204, 2.2-225, 2.2-3705.6, 2.2-3705.7, 2.2-3711, and 23.1-203, 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 2.2-2364; and to repeal Article 3 (§§ 2.2-2218 through 2.2-2233.1) of Chapter 22 of Title 2.2, Article 8 (§§ 23.1-3130 through 23.1-3134) of Chapter 31 of Title 23.1, and § 51.1-124.38 of the Code of Virginia, 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, and 23.1-203 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 2.2-2364, 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, Virginia Innovation Partnership 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.

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

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

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

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

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

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

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

#### *Article 11.*

#### *Commonwealth of Virginia Innovation Partnership Act.*

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

A. *This article shall be known and may be cited as the Commonwealth of Virginia Innovation Partnership Act.*

B. *It is found and determined by the General Assembly that there exists in the Commonwealth a need to support the life cycle of innovation, from translational research; to entrepreneurship; to pre-seed and seed stage funding; and to acceleration, growth, and commercialization, resulting in the creation of new jobs and company formation. A collaborative, consistent, and consolidated approach will assist the Commonwealth in identifying its entrepreneurial strengths, including the identification of talents and resources that make the Commonwealth a unique place to grow and attract technology-based businesses. It is also found and determined by the General Assembly that there exists in the Commonwealth of Virginia a need to (i) promote the technology-based economic development of the Commonwealth by building, attracting, and retaining innovation and high-technology jobs and businesses in Virginia; (ii) increase industry competitiveness by supporting the application of innovative technologies that improve productivity and efficiency; (iii) attract and provide additional private and public funding in the Commonwealth to enhance and expand the scientific and technological research and commercialization at state and federal research institutions and facilities, including by supporting and working with technology transfer offices to advance research from proof-of-concept to commercialization resulting in new business and job creation; (iv) attract and provide additional private and public funding to support and enhance innovation-led entrepreneurship ecosystems and coordination of existing activities and programs throughout the Commonwealth to create new job opportunities and diversify the economy; (v) ensure promotion and marketing of Virginia's statewide innovation economy and support and coordinate regional marketing efforts to align local and statewide objectives; and (vi) close the Commonwealth's support gap through pre-seed and seed stage investments, coordination of private investor networks, and shared due diligence research.*

C. *To achieve the objectives set forth in subsection B, there is created and constituted a political subdivision of the Commonwealth to be known as the Commonwealth of Virginia Innovation Partnership Authority. The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired. Nothing in this article shall be construed to diminish or limit the powers and responsibilities of institutions of higher education or other educational or cultural institutions set forth in Title 23.1, including but not limited to such institution's authority to establish its own independent policies and technology transfer offices.*

#### **§ 2.2-2352. Definitions.**

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

"Authority" means the Commonwealth of Virginia Innovation Partnership Authority.

"Board" means the board of directors of the Authority.

"Founder" means a person who founds a company.

"Founder-friendly" means policies related to the transactional process of the development of technology, from research to commercialization, that are fair, transparent, and designed to enable the success of an inventor and business owner as the business grows.

"Index" means the Virginia Innovation Index.

**§ 2.2-2353. Board of directors; members; president.**

A. The Authority shall be governed by a board of directors consisting of 11 voting members as follows: (i) the Secretary of Commerce and Trade, or his designee, (ii) five nonlegislative citizen members appointed by the Governor, (iii) three nonlegislative citizen members appointed by the Joint Rules Committee, and (iv) one director of technology transfer office or equivalent position of the major research public institutions of higher education, or his designee, and one director of technology transfer office or equivalent position from the other public institutions of higher education, appointed by the Joint Rules Committee.

B. Of the nonlegislative citizen members, (i) two nonlegislative citizen members appointed by the Governor shall be from the investor community with experience as a partner in a venture capital fund with a minimum of \$35 million under management or experience qualifying as an accredited investor, as defined by the federal Securities and Exchange Commission, who have experience investing, as an individual or as part of an angel group, in 10 or more early stage companies; (ii) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall be from the technology sector with experience (a) as a founder of a science-based or technology-based business and who have raised equity capital or (b) as a senior executive in a science or technology company with operations in Virginia and with annual revenues in excess of \$100 million; (iii) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall have experience directly acquiring or commercializing intellectual property from a university or other research institution or experience working at an organization that has acquired or commercialized intellectual property from a university or other research institution; and (iv) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall have experience in entrepreneurial development or entrepreneurial community and network development. In making the appointments, the Governor shall consider the geographic and demographic diversity of the Board.

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

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

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

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

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

G. The Board shall appoint a president of the Authority, who shall not be a member of the Board who shall serve at the pleasure of the Board and carry out such powers and duties conferred upon him by the Board.

**§ 2.2-2354. Powers and duties of the President.**

The President shall employ or retain such agents or employees subordinate to the President as may be necessary to fulfill the duties of the Authority conferred upon the President, subject to the Board's approval. Employees of the Authority shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium

183 conversion and flexible benefits, available to state employees as provided by law. The President shall  
184 also exercise such of the powers and duties relating to the direction of the Commonwealth's research  
185 and commercialization efforts conferred upon the Authority as may be delegated to him by the Board,  
186 including powers and duties involving the exercise of discretion. The President shall also exercise and  
187 perform such other powers and duties as may be lawfully delegated to him or as may be conferred or  
188 imposed upon him by law.

189 **§ 2.2-2355. Powers of the Authority.**

190 The Authority is granted all powers necessary or convenient for the carrying out of its statutory  
191 purposes, including, but not limited to, the following rights and powers to:

192 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts. Nothing  
193 herein shall be construed to waive any applicable immunity enjoyed by the Authority.

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

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

205 4. Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and  
206 operate projects.

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

208 6. Establish and maintain an office in Richmond to serve as headquarters for the Authority. The  
209 Authority may also establish and maintain satellite offices within the Commonwealth.

210 7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for  
211 the sale of products of or for the services rendered by, the Authority, at rates to be determined by it for  
212 the purpose of providing for the payment of the expenses of the Authority, the planning, development,  
213 construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects  
214 and properties, the payment of the costs accomplishing its purposes set forth in § 2.2-2351, the payment  
215 of the principal of and interest on its obligations, and the fulfillment of the terms and provisions of any  
216 agreements made with the purchasers or holders of any such obligations.

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

220 9. Employ, in its discretion, consultants, researchers, attorneys, architects, engineers, accountants,  
221 financial experts, investment bankers, superintendents, managers, and such other employees and agents  
222 as may be necessary, and to fix their compensation to be payable from funds made available to the  
223 Authority.

224 10. Receive and accept from any federal or private agency, foundation, corporation, association, or  
225 person grants to be expended in accomplishing the objectives of the Authority and receive and accept  
226 from the Commonwealth or any state, and any municipality, county, or other political subdivision  
227 thereof and from any other source, aid or contributions of either money, property, or other things of  
228 value, to be held, used, and applied only for the purposes for which such grants and contributions may  
229 be made.

230 11. Render advice and assistance, and provide services, to institutions of higher education and to  
231 other persons providing services or facilities for scientific and technological research or graduate  
232 education, provided that credit toward a degree, certificate, or diploma shall be granted only if such  
233 education is provided in conjunction with an institution of higher education authorized to operate in  
234 Virginia.

235 12. Develop, undertake, and provide programs, alone or in conjunction with any person or federal  
236 agency, for scientific and technological research, technology management, continuing education, and  
237 in-service training, provided that credit toward a degree, certificate, or diploma shall be granted only if  
238 such education is provided in conjunction with an institution of higher education authorized to operate  
239 in Virginia; foster the utilization of scientific and technological research information, discoveries, and  
240 data and to obtain patents, copyrights, and trademarks thereon; to encourage the coordination of the  
241 scientific and technological research efforts of public institutions and private industry and collect and  
242 maintain data on the development and utilization of scientific and technological research capabilities.

243 13. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security  
244 for all or any of the obligations of the Authority.

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

15. Develop the Index, pursuant to § 2.2-2360, to use to identify research areas worthy of Commonwealth investment in order to promote commercialization and economic development efforts in the Commonwealth.

16. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's institutions of higher education, the private sector, federal labs, and not-for-profit organizations to improve research and development of commercialization efforts.

17. Receive and review annual reports from institutions and facilities regarding the progress of projects funded through the Authority. The Authority shall develop guidelines, methodologies, metrics, and criteria for the reports. The Authority shall aggregate the reports and submit an annual omnibus report on the status of research and development initiatives funded by the Authority in the Commonwealth to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on Communications, Technology and Innovation, the Senate Committee on Finance and Appropriations, and the Senate Committee on General Laws and Technology.

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

19. Establish and administer, through any nonstock, nonprofit corporation established by the Authority, investment funds that may accept funds from any source, public or private, to support venture capital activities in the Commonwealth. The administration of any such investment fund shall be advised by the Advisory Committee on Investment created pursuant to § 2.2-2358.

20. Report on all investment activities of the Authority, and any entity established by the Authority, including returns on investments, to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on Communications, Technology and Innovation, the Senate Committee on Finance and Appropriations, and the Senate Committee on General Laws and Technology.

21. Exclusively, or with any other person, form and otherwise develop, own, operate, govern, and otherwise direct the disposition of assets of, or any combination thereof, separate legal entities, on any such terms and conditions and in any such manner as may be determined by the Board, provided that such separate legal entities shall be formed solely for the purpose of managing and administering any assets disposed of by the Authority. Such legal entities may include limited liability companies, limited partnerships, charitable foundations, real estate holding companies, investment holding companies, nonstock corporations, and benefit corporations. Any legal entities created by the Authority shall be operated under the governance of the Authority, and each shall provide quarterly performance reports to the Board. The articles of incorporation, partnership, or organization for such legal entities shall provide that, upon dissolution, the assets of the entities that are owned on behalf of the Commonwealth shall be transferred to the Authority. Any legal entity created pursuant to this subdivision shall ensure that the economic benefits attributable to the income and property rights arising from any transaction in which the entity is involved are allocated based on the reasonable business judgment of the Board, with due account being given to the interest of the citizens of the Commonwealth and the needs of the entity. No legal entity shall be deemed to be a state or government agency, advisory agency, public body, or instrumentality of the Commonwealth. No director, officer, or employee of any such legal entity shall be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) solely by virtue in his capacity as a director, officer, or employee of such legal entity. Notwithstanding the foregoing, the Auditor of Public Accounts or his legally authorized representative shall annually audit the financial accounts of the Authority and any such legal entities.

22. Provide leadership for strategic initiatives that explore and shape programs designed to attract and grow innovation in the Commonwealth. Such leadership may include (i) seeking, or supporting others in seeking, federal grants, contracts, or other funding sources that advance the exploration functions of the Authority's public purpose; (ii) assuming responsibility for forward-looking technology assessment and market vision around strategic initiatives and partnerships with federal and local governments; (iii) taking a leading role in defining, promoting, and implementing forward-looking technology market and industry development policies and processes that advance innovation and entrepreneurial activity and the assimilation of technology; (iv) contracting with federal and private entities to further innovation, commercialization, and entrepreneurship in the Commonwealth; and (v)

conducting limited-scale commercialization pilot projects based on identified strategic initiatives to promote the industry or commercial development of specific technologies or interests.

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

**§ 2.2-2356. Designation of staff of not-for-profit entity.**

A. The Board may designate the president and staff of a not-for-profit entity established pursuant to this article to carry out the day-to-day operations and activities of the Authority and to perform such other duties as may be directed by the Board.

B. The president shall employ or retain such agents or employees subordinate to the president as may be necessary to fulfill the duties of the Authority and the not-for-profit entity designated herein. Employees shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

**§ 2.2-2357. Division of Entrepreneurial Ecosystems.**

A. Within the Authority shall be created a Division of Entrepreneurial Ecosystems (the Division) to support and promote technology-based entrepreneurial activities in the Commonwealth. The Division shall have the authority to (i) connect regional entrepreneurial support services; (ii) administer the Regional Innovation Fund (the Fund); (iii) coordinate marketing efforts between statewide and regional campaigns; (iv) establish entrepreneurs in residence to align local needs with state initiatives and funds; (v) compile, maintain, and promote an information portal of available public and private funding vehicles; and (vi) perform any other duties assigned by the Board. In performing such duties and responsibilities, the Division may (a) seek to build networks between regional entrepreneur support services, (b) facilitate state-wide information sharing and exchange of ideas and best practices, (c) establish a portal to highlight the availability of regional entrepreneurial support services; (d) aggregate information from national, regional, and local sources and promote available public and private funding vehicles; and (e) undertake any other activities or provide any other services relative to the purpose of the Division.

B. The Division shall be advised by an Advisory Committee (Advisory Committee) on Entrepreneurial Ecosystems, to be appointed by the Board.

C. The Division may partner with the GO Virginia regional councils to offer resources and expertise related to entrepreneurial ecosystem development, to identify multiregion initiatives, and to facilitate communication regarding best practices across regional councils.

D. 1. There is hereby created a permanent fund to be known as the Regional Innovation Fund, to be administered by the Authority. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by authorization of the president, chairman, or vice-chairman of the Authority.

2. Moneys in the Fund shall be used for (i) competitive grants or loans to advance regional ecosystem development activities, (ii) support for enhanced capacity building projects, (iii) assistance with the creation and maintenance of appropriate infrastructure for the execution of innovation and startup programming, or (iv) technical assistance to startups in regional ecosystems. Moneys from the Fund shall be used for the purposes set forth in this subdivision that further the goals set forth in the Index.

3. Awards from the Fund shall be made by the Authority pursuant to guidelines, procedures, and criteria for the application for and award of grants or loans developed by the Division in consultation with the Advisory Committee and approved by the Board.

4. Any award from the Fund shall require matching funds at least equal to the award, provided, however, that the Authority shall have the authority to reduce the match requirement to no less than half of the grant upon a finding by the Authority of fiscal distress or an exceptional economic opportunity in a region. Such matching funds may be from local, regional, federal, or private funds, but shall not include any state general funds, from whatever source.

**§ 2.2-2358. Division of Investment.**

A. Within the Authority shall be created a Division of Investment (the Division) to provide the Commonwealth with a competitive advantage through an array of funding mechanisms as provided in § 2.2-2355 related to direct and indirect venture capital investments. The Division may (i) make direct investments in business entities, (ii) make indirect investments in business entities through intermediary entities, whether formed by the Authority, or by another public or private entity or provide other financial support to encourage the formation of such intermediary entities or sidecar funds, (iii) benchmark state tax incentive programs relating to the formation and growth of technology-based businesses, and (iv) perform any other duties or responsibilities assigned by the Board.

B. The Division shall partner with and support women-owned and minority-owned entrepreneurial entities through initiatives such as investor networks, accelerators, and incubators that promote and

develop women and minority founders. Further, the Division shall consider status as a woman-owned or minority-owned business when making direct or indirect investments.

C. The Division shall work to support investments in the diverse economies and regions of the Commonwealth and shall engage members of rural and geographically underrepresented communities on advisory committees and in positions of decision making.

D. The Division shall be advised by an Advisory Committee on Investment (the Advisory Committee), to be appointed by the Board.

E. The Board, in consultation with the Division and the Advisory Committee, shall make biennial recommendations to the Governor regarding investment strategies.

#### **§ 2.2-2359. Division of Commercialization.**

A. Within the Authority shall be created a Division of Commercialization (the Division). The Division shall (i) promote research and development excellence in the Commonwealth; (ii) provide guidance and coordination, as deemed necessary, to existing efforts to support research in the Commonwealth with commercial potential; (iii) review and advise on the Index; (iv) administer the Commonwealth Commercialization Fund (the Fund); and (v) perform any other duties or responsibilities assigned by the Board.

B. The Division shall be advised by an Advisory Committee on Commercialization (the Advisory Committee), to be appointed by the Board. The Advisory Committee shall include at least two representatives from public institutions of higher education in the Commonwealth.

C. The Division, in consultation with the Advisory Committee and subject to approval of the Board, shall develop guidelines, procedures, and criteria for the (i) application for grants and loans from the Fund; (ii) review, certification of scientific merits, and scoring or prioritization of applications for grants and loans from the Fund; and (iii) evaluation and recommendation to the Authority regarding the award of grants and loans from the Fund. The guidelines, procedures, and criteria shall include requirements that applicants demonstrate and the Authority consider:

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

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

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

D. The Division may forward any application for a grant or loan from the Fund to an entity with recognized science and technology expertise for a review and certification of the scientific merits of the proposal, including a scoring or prioritization of applicant programs and projects deemed viable by the reviewing entity.

E. 1. There is hereby created a permanent fund to be known as the Commonwealth Commercialization Fund. Interest and other income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund, including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made upon authorization of the president, chairman, or vice-chairman of the Authority.

2. Awards from the Fund shall be made pursuant to the guidelines developed by the Division and approved by the Board.

3. Moneys in the Fund shall be used for grants and loans to (i) foster innovative and collaborative research, development, and commercialization efforts in the Commonwealth in projects and programs with a high potential for economic development and job creation opportunities; (ii) position the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; (iii) attract and effectively recruit and retain eminent researchers to enhance research superiority at public institutions of higher education; and (iv) encourage cooperation and collaboration among public institutions of higher education, and with the private sector, in areas and with activities that foster economic development and job creation in the Commonwealth. Grants and loans from the Fund shall be made to applications that further the goals set forth in the Virginia Innovation Index.

4. Awards from the Fund shall require a match of funds at least equal to the amount awarded.

F. The Division, by December 1, 2020, and annually by December 1 each year thereafter, in consultation with the State Council of Higher Education for Virginia and the Board, shall make

429 recommendations regarding oversight of initiatives or Commonwealth centers of excellence related to  
430 technology-based or innovation-based economic development. Initiatives and Commonwealth centers of  
431 excellence subject to such recommendations include (i) those that engage in commercialization of  
432 university research, (ii) technology-driven industries such as unmanned systems, (iii) advanced  
433 innovation concepts such as smart community technologies, and (iv) technology-based entrepreneurial  
434 activity. Recommendations to evaluate and measure current and future initiatives shall be developed in  
435 alignment with the Index to assist the Governor and General Assembly in determining appropriate  
436 initiatives to pursue while eliminating the establishment of redundant activities.

437 G. Institutions of higher education may choose to coordinate with the Division and participate in  
438 projects using moneys granted or loaned from the Fund. The Division shall coordinate with  
439 participating institutions of higher education technology transfer officers and vice-presidents of research  
440 and innovation to advance founder-friendly policies throughout the Commonwealth. The results of such  
441 partnerships may include the establishment of a central Commonwealth-run technology transfer office  
442 and founder-friendly terms for optional use; the creation of an inventory library of statewide available  
443 technologies and intellectual property; the support and strengthening of existing technology transfer  
444 offices, with focus on the need for proof of concept funds and the development of commercialization  
445 advancement plans.

446 H. The Division may coordinate with public institutions of higher education, technology transfer  
447 offices, the State Council for Higher Education for Virginia, and the Office of the Attorney General to  
448 identify the allowable uses of buildings owned by public institutions of higher education for research-led  
449 spin-off companies and student commercial initiatives that originate at public institutions of higher  
450 education. The Division and its partners shall take official notice of the fact that no general prohibition  
451 exists in the acts of assembly or the Code that generally prohibits such use, but that limitations may  
452 exist on a case-by-case basis that may prohibit the use of a particular building, facility, or piece of  
453 equipment for the purposes set forth in this subsection.

454 **§ 2.2-2360. Virginia Innovation Index.**

455 A. The Authority shall develop, subject to approval by the Board, a Virginia Innovation Index, a  
456 comprehensive research and technology strategic plan for the Commonwealth to identify research areas  
457 worthy of Commonwealth economic development. The goal of the Index shall be to develop a cohesive  
458 and comprehensive framework through which to encourage collaboration between the Commonwealth's  
459 public institutions of higher education, private sector industries, and economic development entities in  
460 order to focus on the complete lifecycle of research, development, and commercialization. The  
461 framework shall serve as a means to (i) identify the Commonwealth's key industry sectors in which  
462 investments in technology should be made by the Commonwealth; (ii) identify basic and applied  
463 research opportunities in these sectors that exhibit commercial promise; (iii) encourage  
464 commercialization and economic development activities in the Commonwealth in these sectors; and (iv)  
465 help ensure that investments of public funds in the Commonwealth in basic and applied research are  
466 made prudently in focused areas for projects with significant potential for commercialization and  
467 economic growth in the Commonwealth.

468 B. The Index shall be used to determine areas of focus for grants, loans, and investments by the  
469 Authority pursuant to this article.

470 C. In developing the Index, the Authority shall:

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

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

477 3. Make recommendations for the alignment of research and development and economic growth in  
478 the Commonwealth, identifying the industry sectors in which the Commonwealth should focus its  
479 research, development, investment, and economic development efforts;

480 4. Establish a process for maintaining an inventory of the Commonwealth's current research and  
481 development endeavors in both the public and private sectors that can be used to attract research and  
482 commercialization excellence in the Commonwealth;

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

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

7. Consult with private industry and industry leaders to identify areas of research and development in which the Commonwealth has a great likelihood of excelling in applied research and commercialization; and

8. Incorporate the work of previous comprehensive research and technology strategic plans developed by the State Council on Higher Education in Virginia.

D. The Authority shall review the Index and make recommendations regarding its update at least once every two years. Such recommended updates shall be submitted to the Board for review and approval.

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

**§ 2.2-2361. Grants or loans of public or private funds.**

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

**§ 2.2-2362. Moneys of Authority; examination of books by the Auditor of Public Accounts.**

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

**§ 2.2-2363. Exemption from taxes or assessments.**

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

**§ 2.2-2364. Exemption of Authority from personnel and procurement procedures.**

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

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

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

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

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

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

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

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

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

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

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

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

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

582 11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity,  
583 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed  
584 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private  
585 Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information  
586 was made public prior to or after the execution of an interim or a comprehensive agreement,  
587 § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public  
588 entity would be adversely affected and (ii) the basis for the determination required in clause (i) is  
589 documented in writing by the responsible public entity; and

590 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or  
591 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995  
592 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002  
593 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity;  
594 (ii) financial information of the private entity, including balance sheets and financial statements, that are  
595 not generally available to the public through regulatory disclosure or otherwise; or (iii) other information  
596 submitted by the private entity where if such information was made public prior to the execution of an  
597 interim agreement or a comprehensive agreement, the financial interest or bargaining position of the  
598 public or private entity would be adversely affected. In order for the information specified in clauses (i),  
599 (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written  
600 request to the responsible public entity;

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

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

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

605 The responsible public entity shall determine whether the requested exclusion from disclosure is  
606 necessary to protect the trade secrets or financial information of the private entity. To protect other  
607 information submitted by the private entity from disclosure, the responsible public entity shall determine  
608 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement  
609 would adversely affect the financial interest or bargaining position of the public or private entity. The  
610 responsible public entity shall make a written determination of the nature and scope of the protection to  
611 be afforded by the responsible public entity under this subdivision. Once a written determination is made  
612 by the responsible public entity, the information afforded protection under this subdivision shall continue  
613 to be protected from disclosure when in the possession of any affected jurisdiction or affected local

jurisdiction.

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

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

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

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

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

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

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

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

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

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

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

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

675 19. Confidential proprietary information and trade secrets developed by or for a local authority  
676 created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to  
677 provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of  
678 Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive  
679 position of the authority, except that information required to be maintained in accordance with  
680 § 15.2-2160 shall be released.

681 20. Trade secrets or financial information of a business, including balance sheets and financial  
682 statements, that are not generally available to the public through regulatory disclosure or otherwise,  
683 provided to the Department of Small Business and Supplier Diversity as part of an application for  
684 certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1  
685 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the  
686 provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or  
687 other materials for which protection from disclosure is sought, (ii) identify the data or other materials for  
688 which protection is sought, and (iii) state the reasons why protection is necessary.

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

691 22. Trade secrets, including, but not limited to, financial information, including balance sheets and  
692 financial statements, that are not generally available to the public through regulatory disclosure or  
693 otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State  
694 Inspector General for the purpose of an audit, special investigation, or any study requested by the Office  
695 of the State Inspector General in accordance with law.

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

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

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

702 c. Stating the reasons why protection is necessary.

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

707 23. Information relating to a grant application, or accompanying a grant application, submitted to the  
708 Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial  
709 information of a grant applicant that is not a public body, including balance sheets and financial  
710 statements, that are not generally available to the public through regulatory disclosure or otherwise, or  
711 (c) research-related information produced or collected by the applicant in the conduct of or as a result of  
712 study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when  
713 such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful  
714 to the competitive position of the applicant; and memoranda, staff evaluations, or other information  
715 prepared by the Commission or its staff exclusively for the evaluation of grant applications. The  
716 exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in  
717 furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

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

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

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

724 c. Stating the reasons why protection is necessary.

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

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

733 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of  
734 such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the  
735 private entity, including balance sheets and financial statements, that are not generally available to the  
736 public through regulatory disclosure or otherwise; or (c) other information submitted by the private

entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

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

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

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

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

c. Stating the reasons why protection is necessary.

28. Information relating to a grant ~~or~~, loan, *or investment* application, or accompanying a grant ~~or~~, loan, *or investment* application, submitted to the *Commonwealth of Virginia Research Investment Committee Innovation Partnership Authority (the Authority)* established pursuant to Article 8 (§ ~~23.1-3130~~ 11 (§ 2.2-2351 et seq.) of Chapter 34 of Title 23.1 22, *an advisory committee of the Authority, or any other entity designated by the Authority to review such applications*, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant ~~or~~, loan, *or investment* application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant ~~or~~, loan, *or investment* application; and memoranda, staff evaluations, or other information prepared by the ~~Committee Authority~~ or its staff, or a reviewing entity pursuant to subsection D of § ~~23.1-3133~~ *designated by the Authority*, exclusively for the evaluation of grant, ~~or~~ loan, *or investment* applications, including any scoring or prioritization documents prepared for and forwarded to the ~~Committee~~ pursuant to subsection D of § ~~23.1-3133~~ *Authority*.

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

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

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

c. Stating the reasons why protection is necessary.

The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and

798 scope of the protection to be afforded by it under this subdivision.

799 29. Proprietary information, voluntarily provided by a private business pursuant to a promise of  
800 confidentiality from a public body, used by the public body for a solar services agreement, where  
801 disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial  
802 information of the private business, including balance sheets and financial statements, that are not  
803 generally available to the public through regulatory disclosure or otherwise; or (c) other information  
804 submitted by the private business and (ii) adversely affect the financial interest or bargaining position of  
805 the public body or private business.

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

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

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

811 c. Stating the reasons why protection is necessary.

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

818 31. Trade secrets, including, but not limited to, financial information, including balance sheets and  
819 financial statements that are not generally available to the public through regulatory disclosure or  
820 otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the  
821 Virginia Department of Transportation for the purpose of an audit, special investigation, or any study  
822 requested by the Virginia Department of Transportation in accordance with law.

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

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

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

828 c. Stating the reasons why protection is necessary.

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

833 32. Information related to a grant application, or accompanying a grant application, submitted to the  
834 Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b)  
835 financial information of a grant applicant that is not a public body, including balance sheets and  
836 financial statements, that are not generally available to the public through regulatory disclosure or  
837 otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or  
838 as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly  
839 issues, when such information has not been publicly released, published, copyrighted, or patented, and  
840 (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision  
841 shall only apply to grants administered by the Department, the Director of the Department, or pursuant  
842 to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative  
843 as authorized by the appropriations act.

844 In order for the information submitted by the applicant and specified in this subdivision to be  
845 excluded from the provisions of this chapter, the applicant shall make a written request to the  
846 Department:

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

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

851 c. Stating the reasons why protection is necessary.

852 The Department shall determine whether the requested exclusion from disclosure is necessary to  
853 protect the trade secrets or confidential proprietary information of the applicant. The Department shall  
854 make a written determination of the nature and scope of the protection to be afforded by it under this  
855 subdivision.

856 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**  
857 **other limited exclusions.**

858 The following information contained in a public record is excluded from the mandatory disclosure  
859 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such

disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

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

As used in this subdivision:

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

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

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

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

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

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

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

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

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

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

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

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a

921 proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a  
922 specific lottery game design, development, production, operation, ticket price, prize structure, manner of  
923 selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of  
924 drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such  
925 information not been publicly released, published, copyrighted, or patented. Whether released, published,  
926 or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon  
927 the first day of sales for the specific lottery game to which it pertains.

928 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local  
929 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a  
930 trust established by one or more local public bodies to invest funds for post-retirement benefits other  
931 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the  
932 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of  
933 visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the  
934 Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or  
935 disposition of a security or other ownership interest in an entity, where such security or ownership  
936 interest is not traded on a governmentally regulated securities exchange, if disclosure of such  
937 information would (i) reveal confidential analyses prepared for the board of visitors of the University of  
938 Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared  
939 by the retirement system, a local finance board or board of trustees, or the Virginia College Savings  
940 Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia  
941 College Savings Plan under a promise of confidentiality of the future value of such ownership interest or  
942 the future financial performance of the entity and (ii) have an adverse effect on the value of the  
943 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board  
944 of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of  
945 William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be  
946 construed to prevent the disclosure of information relating to the identity of any investment held, the  
947 amount invested, or the present value of such investment.

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

951 14. Information held by the Virginia Commonwealth University Health System Authority pertaining  
952 to any of the following: an individual's qualifications for or continued membership on its medical or  
953 teaching staffs; proprietary information gathered by or in the possession of the Authority from third  
954 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in  
955 awarding contracts for construction or the purchase of goods or services; information of a proprietary  
956 nature produced or collected by or for the Authority or members of its medical or teaching staffs;  
957 financial statements not publicly available that may be filed with the Authority from third parties; the  
958 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid  
959 for by the Authority to assist the Authority in connection with its strategic planning and goals; the  
960 determination of marketing and operational strategies where disclosure of such strategies would be  
961 harmful to the competitive position of the Authority; and information of a proprietary nature produced  
962 or collected by or for employees of the Authority, other than the Authority's financial or administrative  
963 records, in the conduct of or as a result of study or research on medical, scientific, technical, or  
964 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body  
965 or a private concern, when such information has not been publicly released, published, copyrighted, or  
966 patented. This exclusion shall also apply when such information is in the possession of Virginia  
967 Commonwealth University.

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

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

981 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax  
982 identification number, state sales tax number, home address and telephone number, personal and lottery

banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

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

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

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

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

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

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

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

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

b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

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

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

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

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

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

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

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

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

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

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

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. *Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.*

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

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

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

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

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

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

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

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

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

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

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

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

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

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

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

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

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

16. Discussion or consideration of medical and mental health records subject to the exclusion in

1167 subdivision 1 of § 2.2-3705.5.

1168 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to  
1169 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and  
1170 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game  
1171 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3  
1172 and subdivision 11 of § 2.2-3705.7.

1173 18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity  
1174 of, or information tending to identify, any prisoner who (i) provides information about crimes or  
1175 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the  
1176 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders  
1177 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

1178 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific  
1179 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement  
1180 or emergency service officials concerning actions taken to respond to such matters or a related threat to  
1181 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,  
1182 where discussion in an open meeting would jeopardize the safety of any person or the security of any  
1183 facility, building, structure, information technology system, or software program; or discussion of reports  
1184 or plans related to the security of any governmental facility, building or structure, or the safety of  
1185 persons using such facility, building or structure.

1186 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or  
1187 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of  
1188 trustees of a trust established by one or more local public bodies to invest funds for postemployment  
1189 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title  
1190 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the  
1191 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,  
1192 holding or disposition of a security or other ownership interest in an entity, where such security or  
1193 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that  
1194 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of  
1195 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia  
1196 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or  
1197 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such  
1198 ownership interest or the future financial performance of the entity, and (ii) would have an adverse  
1199 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a  
1200 local finance board or board of trustees, the board of visitors of the University of Virginia, or the  
1201 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure  
1202 of information relating to the identity of any investment held, the amount invested or the present value  
1203 of such investment.

1204 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
1205 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which  
1206 individual child death cases are discussed by a regional or local child fatality review team established  
1207 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
1208 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
1209 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
1210 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed  
1211 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of  
1212 meetings in which individual death cases are discussed by overdose fatality review teams established  
1213 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are  
1214 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

1215 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern  
1216 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any  
1217 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern  
1218 Virginia Medical School, as the case may be, have been delegated, in which there is discussed  
1219 proprietary, business-related information pertaining to the operations of the University of Virginia  
1220 Medical Center or Eastern Virginia Medical School, as the case may be, including business development  
1221 or marketing strategies and activities with existing or future joint venturers, partners, or other parties  
1222 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case  
1223 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such  
1224 information would adversely affect the competitive position of the Medical Center or Eastern Virginia  
1225 Medical School, as the case may be.

1226 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority  
1227 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or  
1228 disposition by the Authority of real property, equipment, or technology software or hardware and related

goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

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

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

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

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

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

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

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

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

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

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

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

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,

1290 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
1291 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment  
1292 Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in  
1293 subdivision 24 of § 2.2-3705.7.

1294 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of  
1295 § 2.2-3705.6 related to economic development.

1296 40. Discussion or consideration by the Board of Education of information relating to the denial,  
1297 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1298 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created  
1299 by executive order for the purpose of studying and making recommendations regarding preventing  
1300 closure or realignment of federal military and national security installations and facilities located in  
1301 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization  
1302 appointed by a local governing body, during which there is discussion of information subject to the  
1303 exclusion in subdivision 8 of § 2.2-3705.2.

1304 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
1305 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
1306 information of donors.

1307 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
1308 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information  
1309 contained in grant applications.

1310 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority  
1311 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or  
1312 charges for the use of projects of, the sale of products of, or services rendered by the Authority and  
1313 certain proprietary information of a private entity provided to the Authority.

1314 45. Discussion or consideration of personal and proprietary information related to the resource  
1315 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)  
1316 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records  
1317 that contain information that has been certified for release by the person who is the subject of the  
1318 information or transformed into a statistical or aggregate form that does not allow identification of the  
1319 person who supplied, or is the subject of, the information.

1320 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control  
1321 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to  
1322 investigations of applicants for licenses and permits and of licensees and permittees.

1323 47. Discussion or consideration of grant ~~or~~ loan, ~~or investment~~ application records subject to the  
1324 exclusion in subdivision 28 of § 2.2-3705.6 ~~related to the submission of an application for an award~~  
1325 ~~from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of~~  
1326 ~~Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of~~  
1327 ~~§ 23.1-3133 or by the Virginia Research Investment Committee for a grant, loan, or investment pursuant~~  
1328 ~~to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.~~

1329 48. Discussion or development of grant proposals by a regional council established pursuant to  
1330 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth  
1331 and Opportunity Board.

1332 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response  
1333 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses  
1334 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)  
1335 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to  
1336 §§ 15.2-1627.5 and 63.2-1605.

1337 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
1338 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the  
1339 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to  
1340 subdivision 33 of § 2.2-3705.7.

1341 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic  
1342 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and  
1343 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of  
1344 § 60.2-114.

1345 52. *Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority*  
1346 *(the Authority), an advisory committee of the Authority, or any other entity designated by the Authority,*  
1347 *of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.*

1348 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a  
1349 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open  
1350 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or  
1351 motion that shall have its substance reasonably identified in the open meeting.

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

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

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

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

The Council shall:

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

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

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

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

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

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

- 1413 7. Review and approve or disapprove the establishment of any department, school, college, branch,  
1414 division, or extension of any public institution of higher education that such institution proposes to  
1415 establish, whether located on or off the main campus of such institution. If any organizational change is  
1416 determined by the Council to be proposed solely for the purpose of internal management and the  
1417 institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing  
1418 in this subdivision shall be construed to authorize the Council to disapprove the establishment of any  
1419 such department, school, college, branch, division, or extension established by the General Assembly.
- 1420 8. Review the proposed closure of any academic program in a high demand or critical shortage area,  
1421 as defined by the Council, by any public institution of higher education and assist in the development of  
1422 an orderly closure plan, when needed.
- 1423 9. Develop a uniform, comprehensive data information system designed to gather all information  
1424 necessary to the performance of the Council's duties. The system shall include information on  
1425 admissions, enrollment, self-identified students with documented disabilities, personnel, programs,  
1426 financing, space inventory, facilities, and such other areas as the Council deems appropriate. When  
1427 consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.),  
1428 the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the  
1429 Council, acting solely or in partnership with the Virginia Department of Education or the Virginia  
1430 Employment Commission, may contract with private entities to create de-identified student records in  
1431 which all personally identifiable information has been removed for the purpose of assessing the  
1432 performance of institutions and specific programs relative to the workforce needs of the Commonwealth.
- 1433 10. In cooperation with public institutions of higher education, develop guidelines for the assessment  
1434 of student achievement. Each such institution shall use an approved program that complies with the  
1435 guidelines of the Council and is consistent with the institution's mission and educational objectives in  
1436 the development of such assessment. The Council shall report each institution's assessment of student  
1437 achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.
- 1438 11. In cooperation with the appropriate state financial and accounting officials, develop and establish  
1439 uniform standards and systems of accounting, recordkeeping, and statistical reporting for public  
1440 institutions of higher education.
- 1441 12. Review biennially and approve or disapprove all changes in the inventory of educational and  
1442 general space that any public institution of higher education proposes and report such approvals and  
1443 disapprovals to the Governor and the General Assembly. No such change shall become effective until 30  
1444 days after the adjournment of the session of the General Assembly next following the filing of such  
1445 report.
- 1446 13. Visit and study the operations of each public institution of higher education at such times as the  
1447 Council deems appropriate and conduct such other studies in the field of higher education as the Council  
1448 deems appropriate or as may be requested by the Governor or the General Assembly.
- 1449 14. Provide advisory services to each accredited nonprofit private institution of higher education  
1450 whose primary purpose is to provide collegiate or graduate education and not to provide religious  
1451 training or theological education on academic, administrative, financial, and space utilization matters.  
1452 The Council may review and advise on joint activities, including contracts for services between public  
1453 institutions of higher education and such private institutions of higher education or between such private  
1454 institutions of higher education and any agency or political subdivision of the Commonwealth.
- 1455 15. Adopt such policies and regulations as the Council deems necessary to implement its duties  
1456 established by state law. Each public institution of higher education shall comply with such policies and  
1457 regulations.
- 1458 16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and  
1459 Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's  
1460 academic and disciplinary record to a student's parent.
- 1461 17. Require each institution of higher education formed, chartered, or established in the  
1462 Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of  
1463 institutional closure or revocation of approval to operate in the Commonwealth. An institution may  
1464 ensure the preservation of student transcripts by binding agreement with another institution of higher  
1465 education with which it is not corporately connected or in such other way as the Council may authorize  
1466 by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth  
1467 revoked, the Council, through its director, may take such action as is necessary to secure and preserve  
1468 the student transcripts until such time as an appropriate institution accepts all or some of the transcripts.  
1469 Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts  
1470 or authorize disclosure of student records except as may otherwise be authorized by law.
- 1471 18. Require the development and submission of articulation, dual admissions, and guaranteed  
1472 admissions agreements between associate-degree-granting and baccalaureate public institutions of higher  
1473 education.
- 1474 19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee

Studying Higher Education Funding Policies for each public institution of higher education.

20. Develop, pursuant to the provisions of § 23.1-907, guidelines for articulation, dual admissions, and guaranteed admissions agreements, including guidelines related to a one-year Uniform Certificate of General Studies Program and a one-semester Passport Program to be offered at each comprehensive community college. The guidelines developed pursuant to this subdivision shall be developed in consultation with all public institutions of higher education in the Commonwealth, the Department of Education, and the Virginia Association of School Superintendents and shall ensure standardization, quality, and transparency in the implementation of the programs and agreements. At the discretion of the Council, private institutions of higher education eligible for tuition assistance grants may also be consulted.

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

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

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

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

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

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

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

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

29. Develop the Commonwealth Research and Technology Strategic Roadmap pursuant to the provisions of § 23.1-3134 to be submitted to the Virginia Research Investment Committee for approval, and otherwise assist the Virginia Research Investment Committee with the administration of the Virginia Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter 31.

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

2. That Article 3 (§§ 2.2-2218 through 2.2-2233.1) of Chapter 22 of Title 2.2, Article 8 (§§ 23.1-3130 through 23.1-3134) of Chapter 31 of Title 23.1, and § 51.1-124.38 of the Code of Virginia are repealed.

3. That the initial appointment of nonlegislative citizen members to the Commonwealth of Virginia Innovation Partnership Authority made in accordance with the provisions of this act shall be staggered as follows: (i) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall be appointed for a term of one year; (ii) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall be appointed for a term of two years; (iii) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall be appointed for a term of three years; and (iv) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of four years. Any member appointed to an initial term of less than four years shall be eligible to serve two additional full four-year-terms.

4. That any unobligated funds remaining in the Commonwealth Research Commercialization Fund or the Virginia Research Investment Fund upon the effective date of this act shall be transferred to the Commonwealth Commercialization Fund. Any funds remaining in the Commonwealth Growth Acceleration Program Fund upon the effective date of this act shall be transferred to the Commonwealth of Virginia Innovation Partnership Authority.

1536 5. That as of the effective date of this act, the Commonwealth of Virginia Innovation Partnership  
1537 Authority (the Authority) shall be deemed the successor in interest to the Virginia Research  
1538 Investment Committee and the Innovation and Entrepreneurship Investment Authority. Without  
1539 limiting the foregoing, all right, title, and interest in and to any real or tangible personal property  
1540 vested in the Virginia Research Investment Committee or the Innovation and Entrepreneurship  
1541 Investment Authority as of the effective date of this act shall be transferred to and taken as  
1542 standing in the name of the Authority.

1543 6. That the Commonwealth of Virginia Innovation Partnership Authority (the Authority) shall be  
1544 the successor in interest to any grants, loans, or funds currently administered by the Innovation  
1545 and Entrepreneurship Investment Authority, any entity controlled by the Innovation and  
1546 Entrepreneurship Investment Authority, or the Virginia Research Investment Committee. All  
1547 obligations, commitments, and contracts related to such grants, loans, or funds in place on June  
1548 30, 2020, shall remain valid obligations of the Authority.

1549 7. That the Center for Innovative Technology, as it exists on June 30, 2020, shall continue as a  
1550 nonprofit, nonstock corporation of the Commonwealth of Virginia Innovation Partnership  
1551 Authority (the Authority) pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22 of Title 2.2 of  
1552 the Code of Virginia, as created by this act. The Center for Innovative Technology shall continue  
1553 to administer all programs currently in operation on June 30, 2020, unless otherwise provided by  
1554 the law. The Center for Innovative Technology shall continue to administer, monitor, and evaluate  
1555 the award of grants, loans, or investments prior to July 1, 2020, from the Commonwealth  
1556 Research Commercialization Fund and the Growth Accelerator Program Fund, and begin  
1557 administration, monitoring, and evaluation of the award of grants or loans prior to July 1, 2020  
1558 from the Virginia Research Investment Fund, including the continuing oversight of reporting by  
1559 grant, loan, and investment recipients for a period of five years following the award of such  
1560 grants, loans, or investments, and the initiation of clawback proceedings when necessary related to  
1561 any such grants, loans, or investments. The Authority shall rename the Center for Innovative  
1562 Technology no later than July 1, 2021.

1563 8. That the provisions of this act repealing §§ 2.2-2220 and 23.1-3132 of the Code of Virginia shall  
1564 become effective January 1, 2021. The Board of Directors of the Innovation and Entrepreneurship  
1565 Investment Authority and the Virginia Research Investment Committee shall assist in the  
1566 transition of its responsibilities to the Commonwealth of Virginia Innovative Partnership Authority  
1567 (the Authority) no later than January 1, 2021.