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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act 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.

[S 576]

Approved

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

57 property created within the Commonwealth.

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

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

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

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

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

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

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

85 *Article 11.*

86 *Commonwealth of Virginia Innovation Partnership Act.*

87 **§ 2.2-2351. Short title; declaration of public purpose.**

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

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

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

118 *establish its own independent policies and technology transfer offices.*

119 **§ 2.2-2352. Definitions.**

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

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

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

123 *"Founder" means a person who founds a company.*

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

127 *"Index" means the Virginia Innovation Index.*

128 **§ 2.2-2353. Board of directors; members; president.**

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

134 *B. Of the nonlegislative citizen members appointed by the Governor, (i) two nonlegislative citizen*
 135 *members shall be from the investor community with experience as a partner in a venture capital fund*
 136 *with a minimum of \$35 million under management or experience qualifying as an accredited investor, as*
 137 *defined by the federal Securities and Exchange Commission, who have experience investing, as an*
 138 *individual or as part of an angel group, in 10 or more early stage companies; (ii) two nonlegislative*
 139 *citizen members shall be from the technology sector with experience (a) as a founder of a science-based*
 140 *or technology-based business and who have raised equity capital or (b) as a senior executive in a*
 141 *science or technology company with operations in Virginia and with annual revenues in excess of \$100*
 142 *million; and (iii) two nonlegislative citizen members shall have experience acquiring or commercializing*
 143 *intellectual property through private research or experience acquiring or commercializing intellectual*
 144 *property from a university or other research institution. Of the nonlegislative citizen members appointed*
 145 *by the Joint Rules Committee, two nonlegislative citizen members shall have experience in*
 146 *entrepreneurial development or entrepreneurial community and network development. In making the*
 147 *appointments, the Governor and the Joint Rules Committee shall consider the geographic and*
 148 *demographic diversity of the Board.*

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

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

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

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

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

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

171 **§ 2.2-2354. Powers and duties of the president.**

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

179 including powers and duties involving the exercise of discretion. The president shall also exercise and
180 perform such other powers and duties as may be lawfully delegated to him or as may be conferred or
181 imposed upon him by law.

182 **§ 2.2-2355. Powers of the Authority.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

240 education, and political subdivisions of the Commonwealth.

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

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

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

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

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

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

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

290 22. Provide leadership for strategic initiatives that explore and shape programs designed to attract
 291 and grow innovation in the Commonwealth. Such leadership may include (i) seeking, or supporting
 292 others in seeking, federal grants, contracts, or other funding sources that advance the exploration
 293 functions of the Authority's public purpose; (ii) assuming responsibility for forward-looking technology
 294 assessment and market vision around strategic initiatives and partnerships with federal and local
 295 governments; (iii) taking a leading role in defining, promoting, and implementing forward-looking
 296 technology market and industry development policies and processes that advance innovation and
 297 entrepreneurial activity and the assimilation of technology; (iv) contracting with federal and private
 298 entities to further innovation, commercialization, and entrepreneurship in the Commonwealth; and (v)
 299 conducting limited-scale commercialization pilot projects based on identified strategic initiatives to
 300 promote the industry or commercial development of specific technologies or interests.

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

302 **§ 2.2-2356. Designation of staff of not-for-profit entity.**

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

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

311 **§ 2.2-2357. Division of Entrepreneurial Ecosystems.**

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

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

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

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

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

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

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

350 **§ 2.2-2358. Division of Investment.**

351 A. Within the Authority shall be created a Division of Investment (the Division) to provide the
352 Commonwealth with a competitive advantage through an array of funding mechanisms as provided in
353 § 2.2-2355 related to direct and indirect venture capital investments. The Division may (i) make direct
354 investments in business entities, (ii) make indirect investments in business entities through intermediary
355 entities, whether formed by the Authority, or by another public or private entity or provide other
356 financial support to encourage the formation of such intermediary entities or sidecar funds, (iii)
357 benchmark state tax incentive programs relating to the formation and growth of technology-based
358 businesses, and (iv) perform any other duties or responsibilities assigned by the Board.

359 B. The Division shall partner with and support women-owned and minority-owned entrepreneurial
360 entities through initiatives such as investor networks, accelerators, and incubators that promote and
361 develop women and minority founders. Further, the Division shall consider status as a woman-owned or

362 minority-owned business when making direct or indirect investments.

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

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

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

370 **§ 2.2-2359. Division of Commercialization.**

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

377 B. The Division shall be advised by an Advisory Committee on Commercialization (the Advisory
378 Committee), to be appointed by the Board. The Board shall consider including at least one
379 representative from a major public research institution of higher education located outside of the
380 Commonwealth and at least one representative from a public institution of higher education located
381 within the Commonwealth.

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

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

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

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

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

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

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

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

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

422 F. The Division, by December 1, 2020, and annually by December 1 each year thereafter, in

423 consultation with the State Council of Higher Education for Virginia and the Board, shall make
424 recommendations regarding oversight of initiatives or Commonwealth centers of excellence related to
425 technology-based or innovation-based economic development. Initiatives and Commonwealth centers of
426 excellence subject to such recommendations include (i) those that engage in commercialization of
427 university research, (ii) technology-driven industries such as unmanned systems, (iii) advanced
428 innovation concepts such as smart community technologies, and (iv) technology-based entrepreneurial
429 activity. Recommendations to evaluate and measure current and future initiatives shall be developed in
430 alignment with the Index to assist the Governor and General Assembly in determining appropriate
431 initiatives to pursue while preventing the establishment of redundant activities.

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

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

449 **§ 2.2-2360. Virginia Innovation Index.**

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

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

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

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

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

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

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

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

481 6. Solicit feedback from public and private institutions of higher education in the Commonwealth;
482 members of the National Academies of Sciences, Engineering and Medicine; members of the Virginia
483 Academy of Science, Engineering and Medicine; federal research and development assets in the

484 Commonwealth; regional technology councils in the Commonwealth; the Virginia Economic
485 Development Partnership; the Virginia Growth and Opportunity Board; and the private sector;

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

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

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

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

500 **§ 2.2-2361. Grants or loans of public or private funds.**

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

508 **§ 2.2-2362. Moneys of Authority; examination of books by the Auditor of Public Accounts.**

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

516 **§ 2.2-2363. Exemption from taxes or assessments.**

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

528 **§ 2.2-2364. Exemption of Authority from personnel and procurement procedures.**

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

532 **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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

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

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

541 3. Proprietary information, voluntarily provided by private business pursuant to a promise of
542 confidentiality from a public body, used by the public body for business, trade, and tourism
543 development or retention; and memoranda, working papers, or other information related to businesses
544 that are considering locating or expanding in Virginia, prepared by a public body, where competition or

545 bargaining is involved and where disclosure of such information would adversely affect the financial
546 interest of the public body.

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

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

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

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

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

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

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

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

585 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or
586 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995
587 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002
588 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity;
589 (ii) financial information of the private entity, including balance sheets and financial statements, that are
590 not generally available to the public through regulatory disclosure or otherwise; or (iii) other information
591 submitted by the private entity where if such information was made public prior to the execution of an
592 interim agreement or a comprehensive agreement, the financial interest or bargaining position of the
593 public or private entity would be adversely affected. In order for the information specified in clauses (i),
594 (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written
595 request to the responsible public entity:

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

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

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

600 The responsible public entity shall determine whether the requested exclusion from disclosure is
601 necessary to protect the trade secrets or financial information of the private entity. To protect other
602 information submitted by the private entity from disclosure, the responsible public entity shall determine
603 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement
604 would adversely affect the financial interest or bargaining position of the public or private entity. The
605 responsible public entity shall make a written determination of the nature and scope of the protection to

606 be afforded by the responsible public entity under this subdivision. Once a written determination is made
 607 by the responsible public entity, the information afforded protection under this subdivision shall continue
 608 to be protected from disclosure when in the possession of any affected jurisdiction or affected local
 609 jurisdiction.

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

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

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

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

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

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

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

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

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

653 17. Information relating to a grant or loan application, or accompanying a grant or loan application,
 654 to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (~~§ 2.2-2233.1 et seq.~~)
 655 of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3
 656 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary
 657 business or research-related information produced or collected by the applicant in the conduct of or as a
 658 result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly
 659 issues, when such information has not been publicly released, published, copyrighted, or patented, and
 660 (ii) be harmful to the competitive position of the applicant.

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

665 In order for confidential proprietary information or trade secrets to be excluded from the provisions
 666 of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify

667 with specificity the information for which protection is sought, and (c) state the reasons why protection
 668 is necessary. However, the exemption provided by this subdivision shall not apply to any authority
 669 created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

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

676 20. Trade secrets or financial information of a business, including balance sheets and financial
 677 statements, that are not generally available to the public through regulatory disclosure or otherwise,
 678 provided to the Department of Small Business and Supplier Diversity as part of an application for
 679 certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1
 680 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the
 681 provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or
 682 other materials for which protection from disclosure is sought, (ii) identify the data or other materials for
 683 which protection is sought, and (iii) state the reasons why protection is necessary.

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

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

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

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

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

697 c. Stating the reasons why protection is necessary.

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

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

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

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

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

719 c. Stating the reasons why protection is necessary.

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

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

728 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of
 729 such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the
 730 private entity, including balance sheets and financial statements, that are not generally available to the
 731 public through regulatory disclosure or otherwise; or (c) other information submitted by the private
 732 entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private
 733 entity.

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

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

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

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

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

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

751 26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of
 752 § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the
 753 submitting party shall (i) invoke this exclusion upon submission of the data or materials for which
 754 protection from disclosure is sought, (ii) identify the data or materials for which protection is sought,
 755 and (iii) state the reasons why protection is necessary.

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

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

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

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

765 c. Stating the reasons why protection is necessary.

766 28. Information relating to a grant ~~or~~, loan, or investment application, or accompanying a grant ~~or~~,
 767 loan, or investment application, submitted to the ~~Commonwealth of Virginia Research Investment~~
 768 ~~Committee Innovation Partnership Authority (the Authority)~~ established pursuant to Article 8
 769 ~~(§ 23.1-3130 11~~ (§ 2.2-2351 et seq.) of Chapter 31 ~~of Title 23.1~~ 22, an advisory committee of the
 770 Authority, or any other entity designated by the Authority to review such applications, to the extent that
 771 such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant ~~or~~, loan, or
 772 investment application that is not a public body, including balance sheets and financial statements, that
 773 are not generally available to the public through regulatory disclosure or otherwise; or (c)
 774 research-related information produced or collected by a party to the application in the conduct of or as a
 775 result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly
 776 issues, when such information has not been publicly released, published, copyrighted, or patented, and
 777 (ii) be harmful to the competitive position of a party to a grant ~~or~~, loan, or investment application; and
 778 memoranda, staff evaluations, or other information prepared by the ~~Committee Authority~~ or its staff, or a
 779 reviewing entity pursuant to subsection D of § 23.1-3133 designated by the Authority, exclusively for the
 780 evaluation of grant, ~~or~~ loan, or investment applications, including any scoring or prioritization documents
 781 prepared for and forwarded to the ~~Committee pursuant to subsection D of § 23.1-3133 Authority~~.

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

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

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

789 e. Stating the reasons why protection is necessary.

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

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

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

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

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

806 c. Stating the reasons why protection is necessary.

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

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

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

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

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

823 c. Stating the reasons why protection is necessary.

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

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

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

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

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

846 c. Stating the reasons why protection is necessary.

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

850 subdivision.

851 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**
852 **other limited exclusions.**

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

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

859 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or
860 the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
861 Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any
862 political subdivision of the Commonwealth; or the president or other chief executive officer of any
863 public institution of higher education in the Commonwealth. However, no information that is otherwise
864 open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been
865 attached to or incorporated within any working paper or correspondence. Further, information publicly
866 available or not otherwise subject to an exclusion under this chapter or other provision of law that has
867 been aggregated, combined, or changed in format without substantive analysis or revision shall not be
868 deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of
869 any resumes or applications submitted by persons who are appointed by the Governor pursuant to
870 § 2.2-106 or 2.2-107.

871 As used in this subdivision:

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

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

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

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

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

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

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

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

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

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

910 10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled

911 plant and animal species, natural communities, caves, and significant historic and archaeological sites if,
912 in the opinion of the public body that has the responsibility for such information, disclosure of the
913 information would jeopardize the continued existence or the integrity of the resource. This exclusion
914 shall not apply to requests from the owner of the land upon which the resource is located.

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

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

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

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

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

971 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel

972 itinerary, including vehicle identification data or vehicle enforcement system information; video or
 973 photographic images; Social Security or other identification numbers appearing on driver's licenses;
 974 credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll
 975 facility use.

976 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax
 977 identification number, state sales tax number, home address and telephone number, personal and lottery
 978 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
 979 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,
 980 hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10
 981 million, the information described in clause (ii) shall not be disclosed unless the winner consents in
 982 writing to such disclosure.

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

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

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

994 21. Information held by state or local park and recreation departments and local and regional park
 995 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
 996 subdivision shall operate to prevent the disclosure of information defined as directory information under
 997 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the
 998 public body has undertaken the parental notification and opt-out requirements provided by such
 999 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of
 1000 such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction
 1001 has restricted or denied such access. For such information of persons who are emancipated, the right of
 1002 access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of
 1003 the information may waive, in writing, the protections afforded by this subdivision. If the protections are
 1004 so waived, the public body shall open such information for inspection and copying.

1005 22. Information submitted for inclusion in the Statewide Alert Network administered by the
 1006 Department of Emergency Management that reveal names, physical addresses, email addresses, computer
 1007 or internet protocol information, telephone numbers, pager numbers, other wireless or portable
 1008 communications device information, or operating schedules of individuals or agencies, where the release
 1009 of such information would compromise the security of the Statewide Alert Network or individuals
 1010 participating in the Statewide Alert Network.

1011 23. Information held by the Judicial Inquiry and Review Commission made confidential by
 1012 § 17.1-913.

1013 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local
 1014 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement
 1015 system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

1016 a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings
 1017 Plan on the pursuit of particular investment strategies, or the selection or termination of investment
 1018 managers, prior to the execution of such investment strategies or the selection or termination of such
 1019 managers, if disclosure of such information would have an adverse impact on the financial interest of
 1020 the retirement system or the Virginia College Savings Plan; and

1021 b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings
 1022 Plan if disclosure of such records would have an adverse impact on the financial interest of the
 1023 retirement system or the Virginia College Savings Plan.

1024 For the records specified in subdivision b to be excluded from the provisions of this chapter, the
 1025 entity shall make a written request to the retirement system or the Virginia College Savings Plan:

1026 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which
 1027 protection from disclosure is sought;

1028 (2) Identifying with specificity the data or other materials for which protection is sought; and

1029 (3) Stating the reasons why protection is necessary.

1030 The retirement system or the Virginia College Savings Plan shall determine whether the requested
 1031 exclusion from disclosure meets the requirements set forth in subdivision b.

1032 Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of

1033 any investment held or the present value and performance of all asset classes and subclasses.

1034 25. Information held by the Department of Corrections made confidential by § 53.1-233.

1035 26. Information maintained by the Department of the Treasury or participants in the Local
1036 Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the
1037 Department to establish accounts in accordance with § 2.2-4602.

1038 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident
1039 Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers,
1040 except that access shall not be denied to the person who is the subject of the information.

1041 28. Information maintained in connection with fundraising activities by the Veterans Services
1042 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone
1043 number, social security number or other identification number appearing on a driver's license, or credit
1044 card or bank account data of identifiable donors, except that access shall not be denied to the person
1045 who is the subject of the information. Nothing in this subdivision, however, shall be construed to
1046 prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or
1047 donation or the identity of the donor, unless the donor has requested anonymity in connection with or as
1048 a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply
1049 to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the
1050 foundation for the performance of services or other work or (ii) the terms and conditions of such grants
1051 or contracts.

1052 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the
1053 training of state prosecutors or law-enforcement personnel, where such information is not otherwise
1054 available to the public and the disclosure of such information would reveal confidential strategies,
1055 methods, or procedures to be employed in law-enforcement activities or materials created for the
1056 investigation and prosecution of a criminal case.

1057 30. Information provided to the Department of Aviation by other entities of the Commonwealth in
1058 connection with the operation of aircraft where the information would not be subject to disclosure by the
1059 entity providing the information. The entity providing the information to the Department of Aviation
1060 shall identify the specific information to be protected and the applicable provision of this chapter that
1061 excludes the information from mandatory disclosure.

1062 31. Information created or maintained by or on the behalf of the judicial performance evaluation
1063 program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

1064 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are
1065 discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child
1066 abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual
1067 abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or
1068 exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established
1069 pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed or published
1070 in statistical or other aggregated form that does not disclose the identity of specific individuals.

1071 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the
1072 Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target
1073 companies, specific allocation of resources and staff for marketing activities, and specific marketing
1074 activities that would reveal to the Commonwealth's competitors for economic development projects the
1075 strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial
1076 interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and
1077 operational plan shall not be redacted or withheld pursuant to this subdivision.

1078 34. Information discussed in a closed session of the Physical Therapy Compact Commission or the
1079 Executive Board or other committees of the Commission for purposes set forth in subsection E of
1080 § 54.1-3491.

1081 35. *Information held by the Commonwealth of Virginia Innovation Partnership Authority (the*
1082 *Authority), an advisory committee of the Authority, or any other entity designated by the Authority,*
1083 *relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular*
1084 *investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as*
1085 *defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the*
1086 *Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on*
1087 *the financial interest of the Authority or a private entity.*

1088 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

1089 A. Public bodies may hold closed meetings only for the following purposes:

1090 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
1091 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
1092 officers, appointees, or employees of any public body; and evaluation of performance of departments or
1093 schools of public institutions of higher education where such evaluation will necessarily involve

1094 discussion of the performance of specific individuals. Any teacher shall be permitted to be present
 1095 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that
 1096 involves the teacher and some student and the student involved in the matter is present, provided the
 1097 teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing
 1098 in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body
 1099 or an elected school board to discuss compensation matters that affect the membership of such body or
 1100 board collectively.

1101 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
 1102 involve the disclosure of information contained in a scholastic record concerning any student of any
 1103 public institution of higher education in the Commonwealth or any state school system. However, any
 1104 such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall
 1105 be permitted to be present during the taking of testimony or presentation of evidence at a closed
 1106 meeting, if such student, parents, or guardians so request in writing and such request is submitted to the
 1107 presiding officer of the appropriate board.

1108 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
 1109 disposition of publicly held real property, where discussion in an open meeting would adversely affect
 1110 the bargaining position or negotiating strategy of the public body.

1111 4. The protection of the privacy of individuals in personal matters not related to public business.

1112 5. Discussion concerning a prospective business or industry or the expansion of an existing business
 1113 or industry where no previous announcement has been made of the business' or industry's interest in
 1114 locating or expanding its facilities in the community.

1115 6. Discussion or consideration of the investment of public funds where competition or bargaining is
 1116 involved, where, if made public initially, the financial interest of the governmental unit would be
 1117 adversely affected.

1118 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
 1119 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
 1120 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable
 1121 litigation" means litigation that has been specifically threatened or on which the public body or its legal
 1122 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in
 1123 this subdivision shall be construed to permit the closure of a meeting merely because an attorney
 1124 representing the public body is in attendance or is consulted on a matter.

1125 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
 1126 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
 1127 construed to permit the closure of a meeting merely because an attorney representing the public body is
 1128 in attendance or is consulted on a matter.

1129 9. Discussion or consideration by governing boards of public institutions of higher education of
 1130 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
 1131 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
 1132 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
 1133 accepted by a public institution of higher education in the Commonwealth shall be subject to public
 1134 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
 1135 (i) "foreign government" means any government other than the United States government or the
 1136 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
 1137 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
 1138 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
 1139 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
 1140 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
 1141 citizen or national of the United States or a trust territory or protectorate thereof.

1142 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
 1143 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,
 1144 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from
 1145 private sources.

1146 11. Discussion or consideration of honorary degrees or special awards.

1147 12. Discussion or consideration of tests, examinations, or other information used, administered, or
 1148 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

1149 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
 1150 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
 1151 filed by the member, provided the member may request in writing that the committee meeting not be
 1152 conducted in a closed meeting.

1153 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
 1154 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing

1155 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating
1156 position of the governing body or the establishment of the terms, conditions and provisions of the siting
1157 agreement, or both. All discussions with the applicant or its representatives may be conducted in a
1158 closed meeting.

1159 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
1160 activity and estimating general and nongeneral fund revenues.

1161 16. Discussion or consideration of medical and mental health records subject to the exclusion in
1162 subdivision 1 of § 2.2-3705.5.

1163 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
1164 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
1165 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
1166 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
1167 and subdivision 11 of § 2.2-3705.7.

1168 18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
1169 of, or information tending to identify, any prisoner who (i) provides information about crimes or
1170 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
1171 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
1172 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

1173 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
1174 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
1175 or emergency service officials concerning actions taken to respond to such matters or a related threat to
1176 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,
1177 where discussion in an open meeting would jeopardize the safety of any person or the security of any
1178 facility, building, structure, information technology system, or software program; or discussion of reports
1179 or plans related to the security of any governmental facility, building or structure, or the safety of
1180 persons using such facility, building or structure.

1181 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
1182 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
1183 trustees of a trust established by one or more local public bodies to invest funds for postemployment
1184 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
1185 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
1186 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
1187 holding or disposition of a security or other ownership interest in an entity, where such security or
1188 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
1189 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
1190 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
1191 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
1192 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
1193 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
1194 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
1195 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
1196 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
1197 of information relating to the identity of any investment held, the amount invested or the present value
1198 of such investment.

1199 21. Those portions of meetings in which individual child death cases are discussed by the State Child
1200 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
1201 individual child death cases are discussed by a regional or local child fatality review team established
1202 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
1203 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
1204 which individual adult death cases are discussed by the state Adult Fatality Review Team established
1205 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
1206 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
1207 meetings in which individual death cases are discussed by overdose fatality review teams established
1208 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are
1209 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

1210 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
1211 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
1212 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
1213 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
1214 proprietary, business-related information pertaining to the operations of the University of Virginia
1215 Medical Center or Eastern Virginia Medical School, as the case may be, including business development

1216 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
 1217 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
 1218 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
 1219 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
 1220 Medical School, as the case may be.

1221 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
 1222 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
 1223 disposition by the Authority of real property, equipment, or technology software or hardware and related
 1224 goods or services, where disclosure would adversely affect the bargaining position or negotiating
 1225 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
 1226 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
 1227 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
 1228 affect the competitive position of the Authority; and members of the Authority's medical and teaching
 1229 staffs and qualifications for appointments thereto.

1230 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
 1231 the Department of Health Professions to the extent such discussions identify any practitioner who may
 1232 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1233 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
 1234 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
 1235 by or on behalf of individuals who have requested information about, applied for, or entered into
 1236 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)
 1237 of Title 23.1 is discussed.

1238 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
 1239 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
 1240 § 56-484.12, related to the provision of wireless E-911 service.

1241 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
 1242 Professional and Occupational Regulation, Department of Health Professions, or the Board of
 1243 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
 1244 a decision or meetings of health regulatory boards or conference committees of such boards to consider
 1245 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
 1246 requested by either of the parties.

1247 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
 1248 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
 1249 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
 1250 responsible public entity concerning such records.

1251 29. Discussion of the award of a public contract involving the expenditure of public funds, including
 1252 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
 1253 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
 1254 the public body.

1255 30. Discussion or consideration of grant or loan application information subject to the exclusion in
 1256 subdivision 17 of § 2.2-3705.6 by ~~(i) the Commonwealth Health Research Board or (ii) the Innovation~~
 1257 ~~and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory~~
 1258 ~~Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.~~

1259 31. Discussion or consideration by the Commitment Review Committee of information subject to the
 1260 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
 1261 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1262 32. Discussion or consideration of confidential proprietary information and trade secrets developed
 1263 and held by a local public body providing certain telecommunication services or cable television services
 1264 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
 1265 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
 1266 seq.).

1267 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
 1268 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
 1269 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1270 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting
 1271 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

1272 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
 1273 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative
 1274 files subject to the exclusion in subdivision B 1 of § 2.2-3706.

1275 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
 1276 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and

1277 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and
 1278 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or
 1279 recover scholarship awards.

1280 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion
 1281 in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia
 1282 Port Authority.

1283 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
 1284 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
 1285 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
 1286 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment
 1287 Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in
 1288 subdivision 24 of § 2.2-3705.7.

1289 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
 1290 § 2.2-3705.6 related to economic development.

1291 40. Discussion or consideration by the Board of Education of information relating to the denial,
 1292 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1293 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created
 1294 by executive order for the purpose of studying and making recommendations regarding preventing
 1295 closure or realignment of federal military and national security installations and facilities located in
 1296 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
 1297 appointed by a local governing body, during which there is discussion of information subject to the
 1298 exclusion in subdivision 8 of § 2.2-3705.2.

1299 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
 1300 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
 1301 information of donors.

1302 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
 1303 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information
 1304 contained in grant applications.

1305 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
 1306 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
 1307 charges for the use of projects of, the sale of products of, or services rendered by the Authority and
 1308 certain proprietary information of a private entity provided to the Authority.

1309 45. Discussion or consideration of personal and proprietary information related to the resource
 1310 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
 1311 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records
 1312 that contain information that has been certified for release by the person who is the subject of the
 1313 information or transformed into a statistical or aggregate form that does not allow identification of the
 1314 person who supplied, or is the subject of, the information.

1315 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
 1316 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to
 1317 investigations of applicants for licenses and permits and of licensees and permittees.

1318 47. Discussion or consideration of grant ~~or~~, loan, *or investment* application records subject to the
 1319 exclusion in subdivision 28 of § 2.2-3705.6 ~~related to the submission of an application for an award~~
 1320 ~~from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of~~
 1321 ~~Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of~~
 1322 ~~§ 23.1-3133 or by the Virginia Research Investment Committee for a grant, loan, or investment pursuant~~
 1323 ~~to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.~~

1324 48. Discussion or development of grant proposals by a regional council established pursuant to
 1325 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth
 1326 and Opportunity Board.

1327 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
 1328 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
 1329 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
 1330 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
 1331 §§ 15.2-1627.5 and 63.2-1605.

1332 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
 1333 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
 1334 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
 1335 subdivision 33 of § 2.2-3705.7.

1336 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
 1337 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and

1338 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
1339 § 60.2-114.

1340 *52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority*
1341 *(the Authority), an advisory committee of the Authority, or any other entity designated by the Authority,*
1342 *of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.*

1343 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
1344 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
1345 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
1346 motion that shall have its substance reasonably identified in the open meeting.

1347 C. Public officers improperly selected due to the failure of the public body to comply with the other
1348 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
1349 obtain notice of the legal defect in their election.

1350 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
1351 more public bodies, or their representatives, but these conferences shall be subject to the same
1352 procedures for holding closed meetings as are applicable to any other public body.

1353 E. This section shall not be construed to (i) require the disclosure of any contract between the
1354 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
1355 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
1356 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
1357 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
1358 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
1359 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
1360 of such bonds.

1361 **§ 23.1-203. Duties of Council.**

1362 The Council shall:

1363 1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of
1364 § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5
1365 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state
1366 and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both
1367 the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of
1368 the existing institutions of higher education, each public institution's six-year plan, and such other
1369 matters as the Council deems appropriate. The Council shall revise such plan at least once every six
1370 years and shall submit such recommendations as are necessary for the implementation of the plan to the
1371 Governor and the General Assembly.

1372 2. Review and approve or disapprove any proposed change in the statement of mission of any public
1373 institution of higher education and define the mission of all newly created public institutions of higher
1374 education. The Council shall report such approvals, disapprovals, and definitions to the Governor and
1375 the General Assembly at least once every six years. No such actions shall become effective until 30
1376 days after adjournment of the session of the General Assembly next following the filing of such a
1377 report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission
1378 statement adopted by the General Assembly or empower the Council to affect, either directly or
1379 indirectly, the selection of faculty or the standards and criteria for admission of any public institution of
1380 higher education, whether relating to academic standards, residence, or other criteria. Faculty selection
1381 and student admission policies shall remain a function of the individual public institutions of higher
1382 education.

1383 3. Study any proposed escalation of any public institution of higher education to a degree-granting
1384 level higher than that level to which it is presently restricted and submit a report and recommendation to
1385 the Governor and the General Assembly relating to the proposal. The study shall include the need for
1386 and benefits or detriments to be derived from the escalation. No such institution shall implement any
1387 such proposed escalation until the Council's report and recommendation have been submitted to the
1388 General Assembly and the General Assembly approves the institution's proposal.

1389 4. Review and approve or disapprove all enrollment projections proposed by each public institution
1390 of higher education. The Council's projections shall be organized numerically by level of enrollment and
1391 shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop
1392 estimates of the number of degrees to be awarded by each public institution of higher education and
1393 include those estimates in its reports of enrollment projections. The student admissions policies for such
1394 institutions and their specific programs shall remain the sole responsibility of the individual governing
1395 boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies
1396 with comprehensive community colleges as required by § 23.1-907.

1397 5. Review and approve or disapprove all new undergraduate or graduate academic programs that any
1398 public institution of higher education proposes.

1399 6. Review and require the discontinuance of any undergraduate or graduate academic program that is
1400 presently offered by any public institution of higher education when the Council determines that such
1401 academic program is (i) nonproductive in terms of the number of degrees granted, the number of
1402 students served by the program, the program's effectiveness, and budgetary considerations or (ii)
1403 supported by state funds and unnecessarily duplicative of academic programs offered at other public
1404 institutions of higher education. The Council shall make a report to the Governor and the General
1405 Assembly with respect to the discontinuance of any such academic program. No such discontinuance
1406 shall become effective until 30 days after the adjournment of the session of the General Assembly next
1407 following the filing of such report.

1408 7. Review and approve or disapprove the establishment of any department, school, college, branch,
1409 division, or extension of any public institution of higher education that such institution proposes to
1410 establish, whether located on or off the main campus of such institution. If any organizational change is
1411 determined by the Council to be proposed solely for the purpose of internal management and the
1412 institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing
1413 in this subdivision shall be construed to authorize the Council to disapprove the establishment of any
1414 such department, school, college, branch, division, or extension established by the General Assembly.

1415 8. Review the proposed closure of any academic program in a high demand or critical shortage area,
1416 as defined by the Council, by any public institution of higher education and assist in the development of
1417 an orderly closure plan, when needed.

1418 9. Develop a uniform, comprehensive data information system designed to gather all information
1419 necessary to the performance of the Council's duties. The system shall include information on
1420 admissions, enrollment, self-identified students with documented disabilities, personnel, programs,
1421 financing, space inventory, facilities, and such other areas as the Council deems appropriate. When
1422 consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.),
1423 the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the
1424 Council, acting solely or in partnership with the Virginia Department of Education or the Virginia
1425 Employment Commission, may contract with private entities to create de-identified student records in
1426 which all personally identifiable information has been removed for the purpose of assessing the
1427 performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

1428 10. In cooperation with public institutions of higher education, develop guidelines for the assessment
1429 of student achievement. Each such institution shall use an approved program that complies with the
1430 guidelines of the Council and is consistent with the institution's mission and educational objectives in
1431 the development of such assessment. The Council shall report each institution's assessment of student
1432 achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

1433 11. In cooperation with the appropriate state financial and accounting officials, develop and establish
1434 uniform standards and systems of accounting, recordkeeping, and statistical reporting for public
1435 institutions of higher education.

1436 12. Review biennially and approve or disapprove all changes in the inventory of educational and
1437 general space that any public institution of higher education proposes and report such approvals and
1438 disapprovals to the Governor and the General Assembly. No such change shall become effective until 30
1439 days after the adjournment of the session of the General Assembly next following the filing of such
1440 report.

1441 13. Visit and study the operations of each public institution of higher education at such times as the
1442 Council deems appropriate and conduct such other studies in the field of higher education as the Council
1443 deems appropriate or as may be requested by the Governor or the General Assembly.

1444 14. Provide advisory services to each accredited nonprofit private institution of higher education
1445 whose primary purpose is to provide collegiate or graduate education and not to provide religious
1446 training or theological education on academic, administrative, financial, and space utilization matters.
1447 The Council may review and advise on joint activities, including contracts for services between public
1448 institutions of higher education and such private institutions of higher education or between such private
1449 institutions of higher education and any agency or political subdivision of the Commonwealth.

1450 15. Adopt such policies and regulations as the Council deems necessary to implement its duties
1451 established by state law. Each public institution of higher education shall comply with such policies and
1452 regulations.

1453 16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and
1454 Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's
1455 academic and disciplinary record to a student's parent.

1456 17. Require each institution of higher education formed, chartered, or established in the
1457 Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of
1458 institutional closure or revocation of approval to operate in the Commonwealth. An institution may
1459 ensure the preservation of student transcripts by binding agreement with another institution of higher

1460 education with which it is not corporately connected or in such other way as the Council may authorize
 1461 by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth
 1462 revoked, the Council, through its director, may take such action as is necessary to secure and preserve
 1463 the student transcripts until such time as an appropriate institution accepts all or some of the transcripts.
 1464 Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts
 1465 or authorize disclosure of student records except as may otherwise be authorized by law.

1466 18. Require the development and submission of articulation, dual admissions, and guaranteed
 1467 admissions agreements between associate-degree-granting and baccalaureate public institutions of higher
 1468 education.

1469 19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee
 1470 Studying Higher Education Funding Policies for each public institution of higher education.

1471 20. Develop, pursuant to the provisions of § 23.1-907, guidelines for articulation, dual admissions,
 1472 and guaranteed admissions agreements, including guidelines related to a one-year Uniform Certificate of
 1473 General Studies Program and a one-semester Passport Program to be offered at each comprehensive
 1474 community college. The guidelines developed pursuant to this subdivision shall be developed in
 1475 consultation with all public institutions of higher education in the Commonwealth, the Department of
 1476 Education, and the Virginia Association of School Superintendents and shall ensure standardization,
 1477 quality, and transparency in the implementation of the programs and agreements. At the discretion of the
 1478 Council, private institutions of higher education eligible for tuition assistance grants may also be
 1479 consulted.

1480 21. Cooperate with the Board of Education in matters of interest to both public elementary and
 1481 secondary schools and public institutions of higher education, particularly in connection with
 1482 coordination of the college admission requirements, coordination of teacher training programs with the
 1483 public school programs, and the Board of Education's Six-Year Educational Technology Plan for
 1484 Virginia. The Council shall encourage public institutions of higher education to design programs that
 1485 include the skills necessary for the successful implementation of such Plan.

1486 22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship
 1487 Committee in the implementation and administration of the Brown v. Board of Education Scholarship
 1488 Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

1489 23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments,
 1490 institutions, and agencies in carrying out its duties.

1491 24. Serve as the coordinating council for public institutions of higher education.

1492 25. Serve as the planning and coordinating agency for all postsecondary educational programs for all
 1493 health professions and occupations and make recommendations, including those relating to financing, for
 1494 providing adequate and coordinated educational programs to produce an appropriate supply of properly
 1495 trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the
 1496 requirements of this subdivision. All state departments and agencies shall cooperate with the Council in
 1497 the execution of its responsibilities under this subdivision.

1498 26. Carry out such duties as the Governor may assign to it in response to agency designations
 1499 requested by the federal government.

1500 27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each
 1501 public institution of higher education in carrying out its duties.

1502 28. Insofar as practicable, seek the assistance and advice of each public institution of higher
 1503 education in fulfilling its duties and responsibilities.

1504 29. ~~Develop the Commonwealth Research and Technology Strategic Roadmap pursuant to the~~
 1505 ~~provisions of § 23.1-3134 to be submitted to the Virginia Research Investment Committee for approval,~~
 1506 ~~and otherwise assist the Virginia Research Investment Committee with the administration of the Virginia~~
 1507 ~~Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter~~
 1508 ~~31.~~

1509 30. Administer the Virginia Longitudinal Data System as a multiagency partnership for the purposes
 1510 of developing educational, health, social service, and employment outcome data; improving the efficacy
 1511 of state services; and aiding decision making.

1512 **2. That Article 3 (§§ 2.2-2218 through 2.2-2233.1) of Chapter 22 of Title 2.2, Article 8**
 1513 **(§§ 23.1-3130 through 23.1-3134) of Chapter 31 of Title 23.1, and § 51.1-124.38 of the Code of**
 1514 **Virginia are repealed.**

1515 **3. That the initial appointment of nonlegislative citizen members to the Commonwealth of Virginia**
 1516 **Innovation Partnership Authority made in accordance with the provisions of this act shall be**
 1517 **staggered as follows: (i) one nonlegislative citizen member appointed by the Governor and one**
 1518 **nonlegislative citizen member appointed by the Joint Rules Committee shall be appointed for a**
 1519 **term of one year; (ii) one nonlegislative citizen member appointed by the Governor and one**
 1520 **nonlegislative citizen member appointed by the Joint Rules Committee shall be appointed for a**

1521 term of two years; (iii) one nonlegislative citizen member appointed by the Governor and one
1522 nonlegislative citizen member appointed by the Joint Rules Committee shall be appointed for a
1523 term of three years; and (iv) three nonlegislative citizen members appointed by the Governor shall
1524 be appointed for a term of four years. Any member appointed to an initial term of less than four
1525 years shall be eligible to serve two additional full four-year-terms.

1526 4. That any unobligated funds remaining in the Commonwealth Research Commercialization Fund
1527 or the Virginia Research Investment Fund upon the effective date of this act shall be transferred
1528 to the Commonwealth Commercialization Fund. Any funds remaining in the Commonwealth
1529 Growth Acceleration Program Fund upon the effective date of this act shall be transferred to the
1530 Commonwealth of Virginia Innovation Partnership Authority.

1531 5. That as of the effective date of this act, the Commonwealth of Virginia Innovation Partnership
1532 Authority (the Authority) shall be deemed the successor in interest to the Virginia Research
1533 Investment Committee and the Innovation and Entrepreneurship Investment Authority. Without
1534 limiting the foregoing, all right, title, and interest in and to any real or tangible personal property
1535 vested in the Virginia Research Investment Committee or the Innovation and Entrepreneurship
1536 Investment Authority as of the effective date of this act shall be transferred to and taken as
1537 standing in the name of the Authority.

1538 6. That the Commonwealth of Virginia Innovation Partnership Authority (the Authority) shall be
1539 the successor in interest to any grants, loans, or funds currently administered by the Innovation
1540 and Entrepreneurship Investment Authority, any entity controlled by the Innovation and
1541 Entrepreneurship Investment Authority, or the Virginia Research Investment Committee. All
1542 obligations, commitments, and contracts related to such grants, loans, or funds in place on June
1543 30, 2020, shall remain valid obligations of the Authority.

1544 7. That the Center for Innovative Technology, as it exists on June 30, 2020, shall continue as a
1545 nonprofit, nonstock corporation of the Commonwealth of Virginia Innovation Partnership
1546 Authority (the Authority) pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22 of Title 2.2 of
1547 the Code of Virginia, as created by this act. The Center for Innovative Technology shall continue
1548 to administer all programs currently in operation on June 30, 2020, unless otherwise provided by
1549 the law. The Center for Innovative Technology shall continue to administer, monitor, and evaluate
1550 the award of grants, loans, or investments prior to July 1, 2020, from the Commonwealth
1551 Research Commercialization Fund and the Growth Accelerator Program Fund, and begin
1552 administration, monitoring, and evaluation of the award of grants or loans prior to July 1, 2020
1553 from the Virginia Research Investment Fund, including the continuing oversight of reporting by
1554 grant, loan, and investment recipients for a period of five years following the award of such
1555 grants, loans, or investments, and the initiation of clawback proceedings when necessary related to
1556 any such grants, loans, or investments. The Authority shall rename the Center for Innovative
1557 Technology no later than July 1, 2021.

1558 8. That the provisions of this act repealing §§ 2.2-2220 and 23.1-3132 of the Code of Virginia shall
1559 become effective January 1, 2021. The Board of Directors of the Innovation and Entrepreneurship
1560 Investment Authority and the Virginia Research Investment Committee shall assist in the
1561 transition of its responsibilities to the Commonwealth of Virginia Innovative Partnership Authority
1562 (the Authority) no later than January 1, 2021.