

**FINAL REPORT
OF THE VIRGINIA CODE COMMISSION**

**RECODIFICATION OF
TITLE 2.1 AND 9 OF
THE CODE OF VIRGINIA**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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**COMMONWEALTH OF VIRGINIA
RICHMOND
2001**

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**Final Report of the
Virginia Code Commission
on
The Recodification of Titles 2.1 and 9
of the Code of Virginia
to
The Governor and the General Assembly of Virginia

Richmond, Virginia
January 2001**

**To: The Honorable James S. Gilmore, III, Governor of Virginia,
and
The General Assembly of Virginia**

INTRODUCTION

In accordance with § 9-77.10, the Virginia Code Commission, in 1998, undertook three-year recodification of Titles 2.1 and 9. Title 2.1 was last recodified in 1965 and Title 9 has never been recodified until now. Because both Titles have undergone many changes since the publication of the Code of Virginia of 1950, and the laws concerning the administration of state government and its commissions, boards and institutions have been changed substantially during the past three decades, the need arose to (i) organize the laws in a more logical manner, (ii) delete obsolete and duplicative provisions, and (iii) improve the structure and clarity of Titles 2.1 and 9.

In undertaking the recodification of these two Titles and because the Titles selected for recodification impacted principally the executive branch of government, the Virginia Code Commission contacted each Secretary in the Governor's cabinet and invited his/her participation in identifying obsolete or archaic provisions and/or that require the codification of actual practice for those agencies within each secretariat. Additionally, the Virginia Code Commission requested that each Secretary designate a contact person for the secretariat to facilitate the work of the Code Commission on this project.

An exposure draft of the proposed Titles 2.2 and 9.1, complete with drafting notes, was released in the spring of 2000 for further comment by affected agencies in the executive branch of state government. The culmination of the process begun in the spring of 1998 is the introduction of legislation in the 2001 Session of the

General Assembly to implement the recodification of Titles 2.1 and 9 into the newly organized Titles 2.2 and Title 9.1.

This report details the work of the Virginia Code Commission between June 1998 and December 2000.

SUMMARY

During the recodification of Titles 2.1 and 9, the Virginia Code Commission has rewritten and combined sections or parts of sections to clarify provisions and to eliminate archaic, obsolete or redundant language. Drafting notes highlighting changes or reorganizations appear throughout this report, some preceding chapters where significant revisions were made and others following key sections in the Titles 2.2 and 9.1 draft.

The general reorganization of Title 2.1 distinguishes the *organization* of state government (Subtitle I--Organization of State Government) from the *operation* of state government (Subtitle II--Administration of State Government). In addition, the concept of a "Part" has been introduced as an organizational tool to separate functional areas within the Title. Generally, a "Part" is used to group related chapters. For example, the Governor and his cabinet secretaries have been consolidated into Part A--Office of the Governor--of Subtitle I. The Department of Law is Part B of Subtitle I. Further, state agencies related to the general operation of government have been consolidated into Part C of Subtitle I, and so on. The reorganization of Title 2.1 also includes many chapters from Title 9, Commissions, Boards and Institutions, now consolidated into Part D--State Authorities, Boards, Councils, Commissions and Other Collegial Bodies--because they were created in the executive branch of state government. Several chapters from Title 9 that were boards, councils, etc., created in the legislative branch have been moved to Title 30--General Assembly.

Title 9 has been substantially reorganized and moves executive branch commissions and boards, etc., into proposed Title 2.2. As noted above, several chapters from Title 9 that were boards, councils, etc., created in the legislative branch have been moved to Title 30--General Assembly. The effect of this substantial reorganization is the creation of proposed Title 9.1--Commonwealth's Public Safety. As its name indicates, this proposed Title contains chapters relative to the Department of Criminal Justice Services and fire and police protection generally, taken exclusively from Titles 2.1 and 9.

The challenge of the recodification of Titles 2.1 and 9 lay in limiting the reorganization to those Titles. Because Title 2.1 has been titled "Administration of State Government" and its proposed reorganization into Title 2.2 continues that title, it would be easy to assume that all agencies of state government as well as the

totality of the law governing the executive branch of state government would be located in this single title. This, however, is not and, historically, has not been the case. For example, the Department of Environmental Quality, which is an executive branch agency, is located in Title 10.1. There are numerous other examples. It is important to note that the proposed reorganization of Title 2.1 has been limited to the law currently found in Titles 2.1 and 9 exclusively, except for the inclusion of the Virginia Public Procurement Act in Subtitle II (Transaction of Public Business) of proposed Title 2.2.

The Virginia Code Commission made one substantive change in the law during the recodification of Title 2.1. That change was to existing § 2.1-639.4:1. Currently, § 2.1-639.4:1 of the State and Local Government Conflict of Interests Act defines "state officer or employee" as *[t]hose at the level immediately below those who report directly to the agency head and are at a salary grade of sixteen or higher.* (emphasis added) On the recommendation of the Secretary of Transportation, "salary grade of sixteen or higher" has been replaced with "payband 6 or higher" to comport with compensation reform initiated in 2000. Under compensation reform, salary grades no longer exist and have been replaced by paybands. Payband 6 includes former salary grades of 15, 16, and 17. As a result of the change in this section to "payband," those employees at the former salary grade of 15 will now be included under the State and Local Government Conflict of Interests Act. (See Subtitle I, Part E, State officers and employees generally).

Also of note, although not a substantive change, is the renaming of the Privacy Protection Act of 1976 to the "Government Data Collection and Dissemination Practices Act." The Virginia Code Commission feels that the new chapter name is more descriptive and will clarify existing misunderstanding of what is covered by the Privacy Protection Act. The Privacy Protection Act is in fact a data collection and dissemination statute and does not protect privacy. This recommendation is supported by a 1982 Virginia Supreme Court case, *Hinderliter v. Humphries*, 224 Va. 438, which held that the Privacy Protection Act "[d]oes not render personal information confidential. Indeed, the act does not generally prohibit the dissemination of information. Instead, it requires certain procedural steps to be taken in the collection, maintenance, use, and dissemination of such data."

The Commission is grateful to those agency representatives who devoted their time and expertise to this project by identifying sections that were in need of amendment or deletion and by offering comments on exposure drafts issued by the Commission.

The Virginia Code Commission recommends that the General Assembly enact legislation at the 2001 Session to implement the revisions proposed in this report.

Respectfully submitted,

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I. Title Outline—Proposed 2.2 “Administration of State Government”

Subtitle I—Organization of State Government

Part A—Office of the Governor

- Chapter 1 The Governor
- Chapter 2 Governor’s Secretaries
 - Article 1.....General Provisions
 - Article 2.....Secretary of Administration
 - Article 3.....Secretary of Commerce and Trade
 - Article 4.....Secretary of Education
 - Article 5.....Secretary of Finance
 - Article 6.....Secretary of Health and Human Resources
 - Article 7.....Secretary of Natural Resources
 - Article 8.....Secretary of Public Safety
 - Article 9.....Secretary of Technology
 - Article 10.....Secretary of Transportation
- Chapter 3 Virginia Liaison Office
- Chapter 4 Secretary of the Commonwealth
 - Article 1.....General Provisions
 - Article 2.....Registration of Insignias
 - Article 3.....Registration of Lobbyists

Part B—Department of Law

- Chapter 5 Office of the Attorney General
 - Article 1.....General Provisions
 - Article 2.....Division of Consumer Counsel
 - Article 3.....Division of Debt Collection

Part C—State Agencies Related to the General Operation of Government

- Chapter 6 General Provisions
- Chapter 7 Department for the Aging
- Chapter 8 Department of Accounts
- Chapter 9 Department of Business Assistance
- Chapter 10 Department of Employment Dispute Resolution
- Chapter 11 Department of General Services
- Chapter 12 Department of Human Resource Management
- Chapter 13 Department of Information Technology

- Chapter 14 Department of Minority Business Enterprise
- Chapter 15 Department of Planning and Budget
- Chapter 16 Department of the State Internal Auditor
- Chapter 17 Department of Technology Planning
- Chapter 18 Department of the Treasury
- Chapter 19 Department of Veterans' Affairs
- Chapter 20 Governor's Employment Training Department

Part D—State Authorities, Boards, Councils, Commissions and Other State Collegial Bodies

- Chapter 21 General Provisions
- Chapter 22 Authorities
 - Article 1..... General Provisions
 - Article 2..... Commercial Space Flight Authority
 - Article 3..... Innovative Technology Authority
 - Article 4..... Virginia Economic Development Partnership Authority
 - Article 5..... Virginia Information Providers Network
 - Article 6..... Virginia Public Building Authority
 - Article 7..... Virginia Small Business Financing Authority
 - Article 8..... Virginia Tourism Authority
- Chapter 23 Reserved
- Chapter 24 Boards
 - Article 1..... Art and Architectural Review Board
 - Article 2..... Chief Information Officers Advisory Board
 - Article 3..... Design-Build/Construction Management Review Board
 - Article 4..... Migrant and Seasonal Workers Board
 - Article 5..... Personnel Advisory Board
 - Article 6..... Public Guardian and Conservator Advisory Board
 - Article 7..... Small Business Advisory Board
 - Article 8..... Treasury Board
 - Article 9..... Veterans' Affairs, Board on
 - Article 10..... Virginia Geographic Information Network Advisory Board
 - Article 11..... Virginia-Israel Board
 - Article 12..... Virginia Public Broadcasting Board
 - Article 13..... Virginia Public Building Board
 - Article 14..... Virginia Veterans' Care Center Board of Trustees
 - Article 15..... Virginia Veterans' Cemetery Board
 - Article 16..... Virginia Advanced Shipbuilding and Carrier Integration Board
- Chapter 25 Commissions
 - Article 1..... Southside Virginia Business and Education Commission

- Article 2.....Special Advisory Commission on Mandated Health Insurance Benefits
- Article 3.....Virginia Advisory Commission on Intergovernmental Relations
- Article 4.....Virginia Commission for the Arts
- Article 5.....Commissioners for Promotion of Uniformity of Legislation

Chapter 26 Councils

- Article 1.....Advisory Council on Virginia Business-Education Partnership Program
- Article 2.....Blue Ridge Economic Development Advisory Council
- Article 3.....Blue Ridge Regional Education and Training Council
- Article 4.....Blue Ridge Regional Tourism Council
- Article 5.....Capital Square Preservation Council
- Article 6.....Citizen Advisory Council on Furnishing and Interpreting the Executive Mansion
- Article 7.....Commonwealth Attorney Services Council
- Article 8.....Commonwealth Competition Council
- Article 9.....Commonwealth Council on Aging
- Article 10.....Council on Indians
- Article 11.....Council on the Status of Women
- Article 12.....Human Rights Council
- Article 13.....Interagency Coordinating Council on Housing for the Disabled
- Article 14.....Maternal and Child Health Council
- Article 15.....Specialized Transportation Council
- Article 16.....State Executive Council for Comprehensive Services for At-Risk Youth and Families
- Article 17.....State Health Benefits Advisory Council
- Article 18.....Technology Service, Council on
- Article 19.....Virginia Advisory Council for Adult Education
- Article 20.....Virginia Equal Employment Opportunity Council
- Article 21.....Virginia Council on Coordinating Prevention
- Article 22.....Virginia Interagency Coordinating Council
- Article 23.....Virginia Military Advisory Council
- Article 24.....Virginia Recycling Markets Development Council
- Article 25.....Virginia Workforce Council

Chapter 27 Foundations and other State Collegial Bodies

- Article 1.....Virginia Arts Foundation
- Article 2.....Virginia War Memorial Foundation
- Article 3.....World Trade Alliance for the Blue Ridge
- Article 4.....Boating Advisory Committee
- Article 5.....Debt Capacity Advisory Committee

Part E—State officers and employees generally

- Chapter 28 General Provisions (disability to hold office; health plans, restrictions on state employee access to information infrastructure, etc.)
- Chapter 29 Personnel Act
- Chapter 30 Grievance Procedure
- Chapter 31 Conflicts of Interest Act
- Chapter 32 Workforce Transition Act of 1995

Subtitle II—Administration of State Government

Part A—General Provisions

- Chapter 33 General Provisions (state holidays; special days)
- Chapter 34 Interpreters for Deaf in Agency Proceedings
- Chapter 35 Information Technology Access Act
- Chapter 36 Volunteers Act

Part B—Transaction of Public Business

- Chapter 37 Virginia Freedom of Information Act
- Chapter 38 Personal Privacy Act of 1976
- Chapter 39 Virginia Human Rights Act
- Chapter 40 Administrative Process Act
- Chapter 41 Virginia Register Act
- Chapter 42 Fair Employment Contracting Act
- Chapter 43 Virginia Public Procurement Act
- Chapter 44 Virginia Security for Public Deposits Act
- Chapter 45 Investment of Public Funds
- Chapter 46 Local Government Investment Pool
- Chapter 47 Government Non-Arbitrage Investment Act
- Chapter 48 Virginia Debt Collection Act
- Chapter 49 Public Debt; Issuance of Bonds and Certificates of Indebtedness
- Chapter 50 Interest on Bonds Issued by Government Instrumentalities
- Chapter 51 Virginia Investment Partnership Act

- Chapter 52 Comprehensive Services Act
- Chapter 53 Early Intervention Services System
- Chapter 54 Community Action Act
- Chapter 55 Virginia Biotech Research Act

Part C—Interstate CompactsAgreements

- Chapter 56 Southern States Energy Compact
- Chapter 57 Southern Growth Policy Agreement
- Chapter 58 Delmarva Peninsula Compact

1 TITLE 2.2.
2 ADMINISTRATION OF GOVERNMENT.
3 SUBTITLE I.
4 ORGANIZATION OF STATE GOVERNMENT.
5 PART A.
6 OFFICE OF THE GOVERNOR.
7 CHAPTER 1.
8 GOVERNOR.
9 Article 1.
10 General Provisions.

11 § ~~2.1-382~~ 2.2-100. (Effective October 1, 1998) Salaries of Governor and other officers; administrative assistants.

12 A. The Governor and all officers of the Commonwealth shall receive annually for their services such salaries as
13 ~~shall be~~ are fixed by law.

14 B. The Governor may employ ~~such the necessary~~ administrative assistants, ~~one of which may be including~~ a chief
15 of staff, ~~as may be necessary and may~~ fix their salaries within the limitation of funds appropriated for executive control of the
16 Commonwealth. Any chief of staff appointed by the Governor shall be confirmed by a majority of the members in each house
17 of the General Assembly.

18 C. The Governor may employ ~~such the staff as may be~~ required to perform ~~such necessary~~ services ~~as may be~~
19 ~~necessary~~ in the operation of the Executive Mansion.

20 **DRAFTING NOTE:** Technical corrections only.

21 § ~~2.1-38.3~~ 2.2-101. (Effective October 1, 1998) Clerical forces and office expenses of Governor.

22 The Governor may appoint ~~such the~~ clerical force ~~as may be deemed necessary to the efficiency-efficient operation~~
23 of his office, but the aggregate amount paid such clerks shall not exceed the sum provided by law; ~~and he~~. The Governor
24 may expend for the contingent expenses of his office such sums as ~~may be~~ are provided by law.

25 **DRAFTING NOTE:** Technical corrections only.

26 § ~~2.1-40~~ 2.2-102. Personal staff as commander in chief.

27 The personal staff of the Governor and commander in chief shall consist of the Adjutant General of the
28 Commonwealth and ~~such any~~ additional aides ~~as may be~~ detailed by the Governor ~~and commander in chief~~ from the
29 commissioned personnel of the National Guard of Virginia, the officers reserve corps or the naval reserve corps, or officers of
30 the army or navy of the United States, retired or former officers of the army or navy of the United States, which detail shall
31 operate for the time being as a commission to each officer so detailed as aide-de-camp. Commissions as military aides to the
32 Governor shall be issued by the Secretary of the Commonwealth ~~with such with the rank as the Governor may deem deems~~
33 appropriate and shall continue in effect at the pleasure of the Governor during his term in office. ~~Such~~ The commissions shall
34 be honorary in nature and shall not constitute a commission in the militia of the Commonwealth or entitle the recipient to any
35 pay or benefits. The insignia to be worn by aides when performing their duties shall be prescribed by the Governor. No officer
36 so detailed shall be compelled to serve, ~~nor shall any officer so detailed who consents to serve be entitled to or receive any~~
37 ~~compensation as such aide~~. Officers so detailed shall not be relieved from their ordinary duties, except when actually on duty
38 with the Governor ~~and commander in chief~~. No officer shall be detailed under this section unless he is a qualified voter of the
39 Commonwealth. In addition ~~to the officers above detailed~~, the Governor may appoint and commission with the rank of colonel
40 as a personal aide, the Clerk of the House of Delegates ~~and Keeper of the Rolls of Virginia~~.

41 **DRAFTING NOTE:** Technical corrections only.

42 § ~~2.1-41~~. Civil contingent fund.

43 ~~Out of the sum annually appropriated as a civil contingent fund, there may be paid all expenses in the execution of~~
44 ~~any law for which there is no special appropriation, and any other sums which the Governor may deem necessary or proper.~~
45 ~~No payment shall be made out of such contingent fund, except upon the order of the Governor, directed to the Comptroller.~~

46 **DRAFTING NOTE:** Technical corrections. This section has been deleted because the economic contingency fund created in
47 the appropriation act supercedes the fund created by this section.

48 § ~~2.1-41.4~~ 2.2-103. Authority to formulate executive branch policies; chief officer for personnel administration and
49 planning and budget.

3 A. Except as ~~may be~~ otherwise provided by the Constitution or law, the Governor shall have the authority and
4 responsibility for the formulation and administration of the policies of the executive branch, including resolution of policy and
5 administrative conflicts between and among agencies.

6 B. The Governor shall be the Chief Personnel Officer of the Commonwealth. He shall direct the execution of Chapter
7 29 (§ 2.2-2900 et seq.). The Governor may employ personnel assistants and employees necessary to carry out Chapter 29 (§
8 2.2-2900 et seq.). The Governor shall have the following powers and duties relating to state personnel administration:

9 1. Establish and maintain a classification plan for the service of the Commonwealth, and from time to time, make
10 such amendments as may be necessary. The classification plan shall provide for the grouping of all positions in classes
11 based upon the respective duties, authority, and responsibilities. Each position in the service of the Commonwealth shall be
12 allocated to the appropriate class title.

13 2. Establish and administer a compensation plan for all employees, and from time to time make such amendments
14 as may, be necessary. The compensation plan shall be uniform; and for each class of positions there shall be set forth a
15 minimum and a maximum rate of compensation and any necessary or equitable intermediate rates.

16 3. Adopt necessary rules, not in conflict with Chapter 29 (§ 2.2-2900 et seq.), to provide for the administration of the
17 duties imposed by Chapter 29 (§ 2.2-2900 et seq.), and to govern minimum hours of work, attendance regulations, leaves of
18 absences for employees and the order and manner in which layoffs shall be made.

19 C. The Governor shall be the chief planning and budget officer of the Commonwealth.

20 **DRAFTING NOTE:** Technical corrections only. This proposed section is comprised of the following existing sections:
21 subsection A is § 2.1-41.1; subsection B is §§ 2.1-113 and 2.1-114.2; and subsection C is § 2.1-387.

22 ~~§ 2.1-387. Chief planning and budget officer; deputy.~~

23 ~~The Governor shall be the chief planning and budget officer of the Commonwealth.~~

24 **DRAFTING NOTE:** Technical corrections only. This section was moved from existing Chapter 27 -- Planning and Budget
25 System and now appears as new subsection C in proposed § 2.2-103.

26 ~~§ 2.1-114.2. Powers and duties of Governor.~~

27 ~~The Governor shall have the following powers and duties:~~

28 ~~A. Establish and maintain a classification plan for the service of the Commonwealth, and from time to time, make~~
29 ~~such amendments thereto as may be necessary. The classification plan shall provide for the grouping of all positions in~~
30 ~~classes based upon the respective duties, authority, and responsibilities. Each position in the service of the Commonwealth~~
31 ~~shall be allocated to the appropriate class title therein.~~

32 ~~B. Establish and administer a compensation plan for all employees, and make such amendments thereto as may,~~
33 ~~from time to time, be necessary. The compensation plan shall be uniform; and for each class of positions there shall be set~~
34 ~~forth a minimum and a maximum rate of compensation and such intermediate rates as shall be considered necessary or~~
35 ~~equitable.~~

36 ~~C. Promulgate such rules, not in conflict with this chapter, as he may consider necessary to provide for the~~
37 ~~administration of the duties imposed by this chapter, and to govern minimum hours of work, attendance regulations, leaves of~~
38 ~~absences for employees and the order and manner in which layoffs shall be made.~~

39 **DRAFTING NOTE:** Technical corrections only. This section was now appears as part of new subsection B in proposed § 2.2-
40 103.

41 ~~§ 2.1-39.1~~ 2.2-104. Delegation of powers.

42 The Governor is authorized to ~~may~~ designate and empower any secretary or other officer in the executive branch of
43 state government who is required to be confirmed by the General Assembly or either house thereof, to perform without
44 approval, ratification, or other action by the Governor any function which that is vested in the Governor by law, or which such
45 officer is required or authorized by law to perform only with or subject to the approval, ratification of the Governor; ~~provided,~~
46 however, that nothing contained ~~herein~~ in this section shall relieve the Governor of his responsibility in office for the acts of
47 any ~~each~~ secretary or officer designated by him to perform such functions. Any designation or authorization under this section
48 shall be (i) in the form of a written executive order, ~~shall be~~ (ii) subject to ~~such the~~ terms, conditions, and limitations ~~as the the~~
49 Governor ~~may deem~~ ~~deems~~ advisable, and ~~shall be~~ (iii) revocable in whole or in part at any time by the Governor.

50 **DRAFTING NOTE:** Technical corrections only.

51 ~~§ 2.1-39~~ 2.2-105. Appointments to office; effect of refusal to confirm by the General Assembly.

52 No person appointed to any office by the Governor, whose appointment is subject to confirmation by the General
53 Assembly, shall enter upon, or continue in, office after the General Assembly ~~shall have~~ ~~has~~ refused to confirm his
54 appointment, ~~nor~~. Nor shall such person be eligible for reappointment during the recess of the General Assembly to fill the
55 vacancy caused by ~~such the~~ refusal to confirm.

56 **DRAFTING NOTE:** Technical corrections only.

1 ~~§ 2.1-41.2 2.2-106.~~ Appointment of agency heads; ~~chief of staff.~~

2 Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of
3 agency of the executive branch of state government except the; ~~following: the~~

- 4 ~~1. Executive Director of the Virginia Port Authority, the;~~
- 5 ~~2. Director of the State Council of Higher Education for Virginia, the;~~
- 6 ~~3. Executive Director of the Department of Game and Inland Fisheries, the;~~
- 7 ~~4. Executive Director of the Jamestown-Yorktown Foundation, the;~~
- 8 ~~5. Executive Director of the Motor Vehicle Dealer Board, the;~~
- 9 ~~6. Executive Director of the Virginia College Savings Plan, and the;~~
- 10 ~~7. Librarian of Virginia; and the~~
- 11 ~~8. Administrator of the Commonwealth's Attorneys' Services Council.~~

12 However, the manner of selection of those heads of agencies chosen ~~by election as of January 1, 1976, or as set~~
13 forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the
14 Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, ~~shall (ii) have such the~~
15 professional qualifications ~~as may be prescribed by law, and shall (iii) serve at the pleasure of the Governor.~~

16 ~~The chief of staff who may be appointed by the Governor pursuant to § 2.1-38 shall be confirmed by a majority of the~~
17 ~~members of each house of the General Assembly.~~

18 For the purpose of this section, "agency" ~~shall include~~ includes all administrative units established by law or by
19 executive order ~~which that~~ are not (i) arms of the legislative or judicial branches of government, ~~which are not;~~ (ii) educational
20 institutions of higher education as classified under ~~§§ 9-8423-253.7, 22.1-346, 23-14, and 23-252, and, which are not;~~ (iii)
21 regional planning districts, regional transportation authorities or districts, or regional sanitation districts; and ~~which are not (iv)~~
22 assigned by law to other departments or agencies, not including assignments to secretaries under ~~Chapter 5.1 (§ 2.1-51.7 et~~
23 ~~seq.) Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.~~

24 **DRAFTING NOTE:** Technical corrections. All references to the appointment of a chief of staff have been deleted as
25 duplicative of proposed § 2.2-100. Additionally, the Administrator of the Commonwealth's Attorneys' Services Council has
26 been added to this list because the Administrator is not appointed by the Governor.

27 ~~§ 2.1-42.1 2.2-107. Commission, board, etc., appointments~~ Appointment of members of commissions, boards
28 ~~other collegial bodies.~~

29 Except as provided in the Constitution of Virginia, or where the manner of selection of members of boards and
30 commissions is by election by the General Assembly, or as provided in Title 3.1 ~~as of January 1, 1977, or § 54.1-901, but~~
31 notwithstanding any other provision of law to the contrary, the Governor shall appoint all members of boards, commissions,
32 councils or other collegial bodies created by the General Assembly in the executive branch of state government to terms of
33 office as prescribed by law. Each member ~~so~~ appointed pursuant to this section shall be subject to confirmation by the
34 General Assembly; and shall have ~~such the~~ professional qualifications ~~as may be~~ prescribed by law.

35 **DRAFTING NOTE:** Technical corrections only.

36 ~~§ 2.1-43 2.2-108.~~ Removal of members of certain boards, commissions, etc.

37 A. Notwithstanding any provision of law to the contrary, the Governor ~~is authorized to may~~ remove from office for
38 malfeasance, misfeasance, ~~incompetency~~ incompetence, or gross neglect of duty, ~~or for unlawful or willful neglect of duty,~~ any
39 member of the board of any ~~state college, university, public institution of higher education or other educational institution in~~
40 ~~Virginia,~~ and ~~to fill the vacancy resulting from such the~~ removal. Each appointment to fill a vacancy shall be subject to
41 confirmation by the General Assembly.

42 B. Notwithstanding any provision of law to the contrary, the Governor ~~is authorized to may~~ remove from office for
43 malfeasance, misfeasance, ~~incompetency~~ incompetence, misconduct, neglect of duty, absenteeism, conflict of interests,
44 failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal
45 to carry out a lawful directive of the Governor any member of any board, commission, council or other collegial body
46 established by the General Assembly in the executive branch of state government except those boards provided for in
47 subsection A ~~above,~~ and ~~to fill the vacancy resulting from such the~~ removal subject to confirmation by the General Assembly.

48 C. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to ~~the~~
49 ~~provisions of this subsection~~ section at the time ~~such the~~ removal occurs. The Governor shall be the sole judge of the
50 sufficiency of the cause for removal ~~as set forth in this section.~~

51 **DRAFTING NOTE:** Technical corrections only.

52 ~~§ 2.1-44 2.2-109.~~ Requiring appearances by officers, etc., and production of records, etc.; issuance of subpoenas
53 and other writs; employment of accountants.

1 Whenever the Governor deems it necessary and proper, he may require any ~~such state~~ officer, superintendent,
2 board, ~~state or employee, or any person~~ to appear before him, and he may also require the production of any official books,
3 accounts, vouchers, and other papers relating to their offices and duties. The Governor ~~shall have the power to~~ may issue
4 subpoenas or other writs for the purpose of enforcing the provisions of this section. ~~For the proper inspection~~ The Governor
5 may employ accountants to properly inspect ~~of such records, vouchers, and or other papers he may employ accountants.~~

6 **DRAFTING NOTE:** Technical corrections only.

7 ~~§-2-1-42~~ 2.2-110. Officers of Commonwealth and its institutions to make reports to Governor.

8 The officers of the executive ~~department at the seat of government, branch of state government~~ and superintendents
9 and boards of state institutions, shall make to the Governor ~~in writing, under oath, written reports at such the times as may be~~
10 prescribed by law, ~~and they shall also make in writing, under oath, reports or~~ at any time that the Governor may require ~~upon~~
11 on any subject relating to their ~~respective~~ offices and institutions. The reports shall be in ~~such a~~ form and ~~with such particulars~~
12 contain such information as the Governor may require. ~~They~~ The reports shall be filed in the office of the Secretary of the
13 Commonwealth, and under his supervision, summarized and recorded in ~~proper~~ books kept for the purpose.

14 **DRAFTING NOTE:** Technical corrections. The requirement for written reports to be made under oath has been deleted to
15 reflect current practice.

16 ~~§-2-1-49~~ 2.2-111. Suits, actions, etc., by Governor.

17 A. In order to protect or preserve the interests or legal rights of the Commonwealth and its citizens, the Governor
18 may, by and with the advice of the Attorney General, institute any ~~requisite and appropriate~~ action, suit, motion or other
19 proceeding, in the name of the Commonwealth, in the Supreme Court of the United States or any other court or tribunal in
20 which such action, suit, motion or other proceeding may be properly commenced and prosecuted.

21 B. In accordance with subsection A and pursuant to his duty to protect or preserve the general welfare of the citizens
22 of the Commonwealth, the Governor may institute any action, suit, motion or other proceeding on behalf of its citizens, in the
23 name of the Commonwealth acting in its capacity as *parens patriae*, where ~~he shall have~~ has determined that existing legal
24 procedures fail to adequately protect existing legal rights and interests of such citizens.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§-2-1-50~~ 2.2-112. To whom return on warrant of Governor to be made.

27 Any officer to whom any order or warrant of the Governor is directed shall make return ~~thereof~~ to the Secretary of the
28 Commonwealth, who shall preserve ~~the same~~ it in his office.

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§-2-1-51.5-1~~ 2.2-113. Temporary suspension of state mandates.

31 The Governor may suspend, temporarily and for a period not to exceed one year, any mandate, or portion thereof,
32 prescribed by ~~an administrative department, division or agency~~ any unit of the executive branch of state government on a
33 county, city, town, or other unit of local government upon a finding that ~~such local government or other unit of local~~
34 government ~~it~~ faces fiscal stress and the suspension of ~~such the~~ mandate or portion thereof would help alleviate the fiscal
35 hardship ~~of the local government or other unit of local government~~.

36 No application shall be made by the locality until approved by resolution of the governing body.

37 At the time of application, the following information shall be published in the Virginia Register: (i) the name of the
38 petitioning locality, (ii) the mandate or portion thereof requested to be suspended, (iii) the impact of the suspension of the
39 mandate on the ability of the local government to deliver services, (iv) the estimated reduction in current budget from ~~such the~~
40 suspension, and (v) the time period requested for suspension. Publication in the Virginia Register shall occur at least twenty
41 days in advance of ~~such any~~ suspension by the Governor.

42 No later than January 1 of each year, the Governor shall submit to the General Assembly a report that identifies
43 each ~~locality and petitioning body~~ locality, the mandate or portion thereof for which suspension ~~has been~~ was sought, and the
44 response provided to the locality.

45 Nothing in this section shall apply to the Department of Education.

46 In making a determination of fiscal stress, the Governor may ~~give consideration to, consider,~~ but is not be limited to,
47 the following factors: any changes in anticipated revenue, income distribution of residents, revenue effort, revenue capacity,
48 and changes in local population and employment levels.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§-2-1-38.2~~ 2.2-114. Coordination of official communications with federal and foreign governments.

51 The Governor may ~~promulgate rules and adopt~~ regulations for coordination of official communications on behalf of
52 the Commonwealth by any officer, agency or employee of the Commonwealth with the government of the United States, and
53 ~~other another state and or foreign states~~ nation. Subject to the ultimate authority of the General Assembly to prescribe the

1 | policies of the Commonwealth and within the framework of policy established by the General Assembly, all such
2 | communications shall be at the policy direction of the Governor; ~~provided, however, that~~ communications by the General
3 | Assembly or the Supreme Court of Virginia with the legislature or the judiciary, respectively, of the United States, or ~~other~~
4 | another state and or foreign states-nation, shall be at the discretion of the General Assembly and the Supreme Court of
5 | Virginia. Actions taken under ~~§ 2-1-3~~ 2-2-611 shall be subject to the provisions of this section.

6 | **DRAFTING NOTE:** Technical corrections only.

7 | ~~§-2-1-61-6-5~~ 2-2-115. Governor's Development Opportunity Fund.

8 | A. There is ~~hereby~~ created the Governor's Development Opportunity Fund (the Fund) to be used by the Governor to
9 | attract economic development prospects and secure the expansion of existing industry in the Commonwealth. The Fund shall
10 | consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private.
11 | The Fund shall be established on the books of the ~~comptroller~~ Comptroller, and any funds remaining in the Fund at the end of
12 | a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to
13 | the Fund. The Governor shall report to the chairmen of the House Committees on Appropriations, House and Finance, and
14 | the Senate Committee on Finance Committees as funds are awarded ~~hereunder~~ in accordance with this section.

15 | B. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. Loans shall be
16 | approved by the Governor and made in accordance with procedures established by the Virginia Economic Development
17 | Partnership and approved by the ~~comptroller~~ Comptroller. Loans shall be interest-free unless otherwise determined by the
18 | Governor and shall be repaid to the general fund of the state treasury. The Governor may establish the interest rate to be
19 | charged; otherwise, any interest charged shall be at market rates as determined by the ~~state treasurer~~ State Treasurer and
20 | shall be indicative of the duration of the loan. The Virginia Economic Development Partnership shall be responsible for
21 | monitoring repayment of such loans and reporting the receivables to the ~~comptroller~~ Comptroller as required.

22 | C. Funds may be used for public and private utility extension or capacity development on and off site; road, rail, or
23 | other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage,
24 | paving, and any other activity required to prepare a site for construction; construction or build-out of publicly owned buildings;
25 | grants or loans to an ~~Industrial Development Authority, Housing and Redevelopment Authority~~ industrial development
26 | authority, housing and redevelopment authority, or other political subdivision pursuant to its duties or powers; training; or
27 | anything else permitted by law.

28 | D. Except as provided in this subsection, no grant or loan shall be awarded from the Fund unless the project
29 | involves a minimum private investment of \$10,000,000 and creates 100 jobs. In localities with a population between 50,000
30 | and 100,000, the minimum private investment shall be \$5,000,000, creating 50 jobs. In localities with a population of 50,000
31 | or less, the minimum private investment shall be \$2,500,000, creating 25 jobs. Central cities or urban cores shall be treated
32 | for eligibility purposes the same as communities of 50,000 to 100,000 population. For projects where the average wage of the
33 | new jobs created is at least twice the prevailing wage, excluding benefits, for that locality or region, the Governor shall have
34 | the discretion to require no less than one-half the number of jobs as set forth for that locality in this subsection.

35 | E. The Virginia Economic Development Partnership shall assist the Governor in developing objective guidelines and
36 | criteria ~~which that~~ shall be used in awarding grants or making loans from the Fund. No grant or loan shall be awarded until the
37 | Governor has provided copies of ~~such the~~ guidelines and criteria to the chairmen of the House Committees on
38 | Appropriations, House and Finance, and the Senate Committee on Finance Committees. The guidelines and criteria shall
39 | include provisions for geographic diversity and a cap on the amount of funds to be provided to any individual project. In
40 | developing the guidelines and criteria, the Virginia Economic Development Partnership shall use the Fiscal Stress cited in the
41 | Index published by the Commission on Local Government for the locality in which the project is located or will be located as
42 | one method of determining the amount of assistance a locality shall receive from the Fund.

43 | F. Within thirty days of each six-month period ending June 30 and December 30, the Governor shall provide a report
44 | to the chairmen of the House Committees on Appropriations, House and Finance, and the Senate Committee on Finance
45 | Committees which shall include, but is not limited to, the following information: the name of the company and the type of
46 | business in which it engages ~~in~~; the location (county, city, or town) of the project; the amount of the grant or loan made or
47 | committed from the Fund and the purpose for which it ~~shall~~ will be used; the number of jobs created or projected to be
48 | created; the amount of the company's investment in the project; and the timetable for the completion of the project and jobs
49 | created.

50 | G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount
51 | contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing
52 | appropriation act, the ~~state treasurer~~ State Treasurer shall set aside and reserve ~~such the~~ funds the Governor has committed,
53 | and ~~such the~~ funds shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years
54 | beyond the existing ~~appropriations~~ appropriation act unless ~~such the~~ funds are currently available in the Fund.

55 | **DRAFTING NOTE:** Technical corrections only.

56 | ~~§-2-1-41-3~~ 2-2-116. Service on board of national tobacco trust entity.

57 | The Governor ~~is authorized to~~ may serve in his official capacity on the board of directors of any entity established to
58 | ensure the implementation in the Commonwealth of a national tobacco trust established to provide payments to tobacco

1 growers and tobacco quota owners to ameliorate adverse economic consequences resulting from a national settlement of
2 states' claims against tobacco manufacturers.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 2-1-51.6.3~~ 2.2-117. Governor to administer anti-crime partnership program.

5 It shall be the responsibility of the Governor to establish and administer an anti-crime partnership program within ~~this~~
6 ~~the~~ Commonwealth and to authorize, direct, and coordinate existing and future activities of agencies of ~~this~~ ~~the~~
7 Commonwealth in such program. The Governor, in addition to all other duties and responsibilities conferred on him by the
8 Constitution of Virginia and laws of the Commonwealth, ~~of Virginia, is hereby empowered to~~ may enter into written anti-crime
9 partnership agreements with political subdivisions of the Commonwealth to assist and enhance their ability to reduce the
10 incidence of violent and drug-related crime and fear of crime.

11 ~~Each partnership agreement shall, in~~ In addition to such other terms and conditions to which the parties agree, each
12 partnership agreement shall (i) provide for the creation of a partnership committee ~~which will to~~ advise and direct the
13 partnership; (ii) enumerate the responsibilities of the Commonwealth and the political ~~subdivision or~~ subdivisions involved;,
14 and (iii) state the duration of the partnership, providing for dates on which the partnership will begin and end.

15 The Governor ~~is further empowered to~~ may provide to anti-crime partnerships established pursuant to this section
16 such technical and personnel resources of the Commonwealth as he determines and such financial resources as provided in
17 the general ~~appropriations~~ appropriation act.

18 **DRAFTING NOTE:** Technical corrections only.

19 ~~§ 2-1-51.6.6~~ 2.2-118. Governor to administer substance abuse prevention program.

20 It shall be the responsibility of the Governor to administer the substance abuse prevention program within the
21 Commonwealth and to authorize, direct, and coordinate activities of agencies of the Commonwealth in such program. The
22 Governor is hereby empowered to establish an office of substance abuse prevention within the office of the Governor to
23 assist in the coordination of the substance abuse prevention activities of the Commonwealth, review substance abuse
24 prevention program expenditures by agencies of the Commonwealth, and determine the direction and appropriateness of
25 such expenditures. The Governor shall cooperate with federal, state and local agencies, private and public agencies,
26 interested organizations, and individuals in order to prevent substance abuse within the Commonwealth. The Governor shall
27 report annually by December 1 of each year to the General Assembly on the activities of the office.

28 **DRAFTING NOTE:** Technical corrections only.

29 ~~§ 2-1-51.6~~ 2.2-119. Governor to administer highway safety program and secure benefits to Commonwealth under
30 federal Highway Safety Act of 1966.

31 It shall be the responsibility of the Governor to administer the highway safety program within ~~this~~ ~~the~~ Commonwealth
32 and to authorize, direct and coordinate existing and future activities of agencies of ~~this~~ ~~the~~ Commonwealth and its political
33 subdivisions in such program. The Governor, in addition to all other duties and responsibilities conferred on him by the
34 Constitution and laws of the Commonwealth, ~~of Virginia, is hereby empowered to~~ may contract and ~~to~~ do all other things
35 necessary on behalf of the Commonwealth to secure the full benefits available to ~~this~~ ~~the~~ Commonwealth under the federal
36 Highway Safety Act of 1966, and any amendments thereto, and in so doing, ~~to~~ cooperate with federal and state agencies,
37 private and public agencies, interested organizations, and individuals, to effectuate the purposes of that act and any
38 amendments thereto, and the highway safety program within ~~this~~ ~~the~~ Commonwealth.

39 The Governor shall be the official having the ultimate responsibility for dealing with the United States government
40 with respect to programs and activities pursuant to the federal Highway Safety Act of 1966 and any amendments thereto. To
41 that end he shall be responsible for related activities of any and all departments and agencies of ~~this~~ ~~the~~ Commonwealth and
42 its political subdivisions, ~~relating thereto~~. He may designate such persons, agencies and commissions to assist him in
43 coordinating the activities contemplated under the federal act, ~~and the provisions of this act~~ this section, and the state's
44 highway safety program.

45 **DRAFTING NOTE:** Technical corrections only.

46 ~~§ 2-1-47~~ 2.2-120. Powers with respect to state-owned motor vehicles.

47 (1) ~~A.~~ The Governor may prescribe, by general or special executive ~~orders, rules and orders,~~ regulations for the
48 purchase, use, storage, maintenance and repair of all motor vehicles owned by the Commonwealth, and in the possession of
49 any state department, institution or agency thereof, ~~where~~ his supervision ~~over which~~ is not forbidden by the Constitution. ~~If in~~
50 ~~his judgment considerations of economy or convenience indicate the expediency thereof, he may require all such vehicles, or~~
51 ~~such of them as he may designate, to be kept in such garages, or other places of storage, and to be made available in such~~
52 ~~manner and under such terms for the official use of such departments, institutions, agencies, officers, agents and employees~~
53 ~~of the Commonwealth, as he may designate in any such general or special order.~~

54 (2) If any such state officer, agent or employee fails to comply with any rule, regulation or order of the Governor
55 made pursuant to the provisions of this section, the Comptroller shall, upon order of the Governor, refuse to issue any warrant

1 or warrants on account of expenses incurred, or to be incurred in the purchase, operation, maintenance, or repair of any
2 motor vehicle now or to be in the possession or under the control of such officer, agent or employee, or the Governor
3 order some officer or agent of the Commonwealth to take possession of any such vehicle and to transfer it to some
4 department, institution, agency, officer, agent or employee, or to make such other disposition thereof as the Governor may
5 direct.

6 ~~(3)~~ B. The Governor may ~~utilize~~ use any building or land owned by the Commonwealth, and not required to be used
7 for other purposes, for ~~the storing and garaging of such state-owned~~ motor vehicles. He may ~~provide for the employment of~~
8 employ watchmen or guards, ~~and also~~ mechanics and other labor to repair and service such vehicles, and provide for the
9 purchase of gasoline, oil and other supplies for ~~use in connection therewith~~ such vehicles, and provide for the allocation
10 allocate among the various departments and agencies ~~utilizing same of using such vehicles~~ their ~~proper~~ proportionate part of
11 the cost of ~~such~~ repairs, servicing, gasoline, oil, and other supplies.

12 ~~(4)~~ C. The Governor ~~is hereby authorized to~~ may create in the State Treasurer's office a special fund to be reflected
13 on the books of the Comptroller, out of which all costs and expenses incurred pursuant to this section shall be paid. All
14 allocations of costs and charges for repairing and servicing motor vehicles made against any institution, agency, or
15 department shall, when approved by the department head ~~against which same is made~~, be paid into ~~such the~~ special fund by
16 interdepartmental transfers on the Comptroller's books. All funds so paid or transferred into ~~such the~~ special fund are ~~hereby~~
17 appropriated for the purposes of this section and shall be paid out on warrants of the Comptroller issued upon vouchers
18 signed by ~~such the~~ state officer or employee ~~of the Commonwealth as designated by the Governor may designate~~.

19 ~~(5)~~ D. The Governor ~~is authorized may~~, by executive order or regulation ~~to~~ impose upon the Director of the Division
20 of the Department of Planning and Budget, or any other agency of the ~~Executive Department~~ executive branch of the state
21 government, any or all administrative duties pertaining to the administration of this section.

22 ~~(6)~~ All ~~proper charges for repairing and servicing motor vehicles which have heretofore been incurred by any~~
23 ~~department, agency or institution in connection with the garaging, servicing and repairing of state cars under any former~~
24 ~~executive order and the regulations incident thereto, shall be paid by every such department, institution or agency into the~~
25 ~~special fund provided for in subsection (4) hereof when same is established by the Governor.~~

26 E. If any state officer, agent or employee fails to comply with any rule, regulation or order of the Governor made
27 pursuant to this section, the Comptroller shall, upon order of the Governor, refuse to issue any warrant on account of
28 expenses incurred, or to be incurred in the purchase, operation, maintenance, or repair of any motor vehicle now or to be in
29 the possession or under the control of such officer, agent or employee, or the Governor may order some state officer or agent
30 to take possession of the vehicle and transfer it to some other department, institution, agency, officer, agent or employee
31 to make such other disposition as the Governor may direct.

32 **DRAFTING NOTE:** Technical corrections only. Former subdivision 2 has been moved as new subsection F in this section.
33 Former subdivision 6 has been deleted as obsolete.

34 ~~§-2-448~~ 2.2-121. Approval of purchase of passenger-type automobile; transfer and valuation of surplus vehicles.

35 No passenger-type automobile shall be purchased by the Commonwealth or any officer or employee on behalf of the
36 Commonwealth without the prior written approval of the Governor ~~first obtained~~. The Governor ~~shall have authority to may~~
37 transfer surplus motor vehicles among the departments, institutions and agencies, and the Director of the Department of
38 Accounts shall determine the value of ~~such the~~ surplus equipment for the purpose of maintaining the financial accounts of the
39 departments, agencies and institutions affected by such transfers.

40 **DRAFTING NOTE:** Technical corrections only.

41 ~~§-2-151.6-4~~ 2.2-122. Commercial use of seals of the Commonwealth.

42 ~~A. The Notwithstanding the provisions of § 7.1-31.1, the~~ Governor may authorize the use of the seals of the
43 Commonwealth for commercial purposes upon a finding that such use promotes an appropriate image of the Commonwealth,
44 its heritage and its history, and that such use is carried out in accordance with the laws of the Commonwealth. In considering
45 whether the use of the seals in association with a product promotes an appropriate image of the Commonwealth, preference
46 shall be given to products ~~which that~~ (i) preserve traditional methods of production, including handcrafting techniques, (ii)
47 enhance public appreciation of the Commonwealth's aesthetic values, and (iii) incorporate workmanship and materials of the
48 highest quality. A prospective licensee shall be deemed qualified to protect and promote the image of the Commonwealth if it
49 holds licenses to produce products associated with museums and sites of major historical importance in the Commonwealth,
50 including but not limited to homes of Presidents of the United States and restored historical areas.

51 B. The Secretary of the Commonwealth and the Director of the Division of Purchases and Supply shall assist the
52 Governor in determining the appropriateness of (i) any contract entered into for the commercial use of the seals of the
53 Commonwealth, (ii) the product intended to be sold, (iii) any marketing activities undertaken to promote the sale of the
54 product, and (iv) the pricing structure, including royalties to be paid to the Commonwealth for such use and sale. Any such
55 royalties paid to the Commonwealth shall be deposited in the general fund.

56 **DRAFTING NOTE:** Technical corrections only.

57 ~~§-2-146~~ 2.2-123. Authority over rooms and space in public buildings.

1 Rooms and space in ~~the State Office Building and other~~ public buildings at the seat of government, other than the
2 Capitol, whether ~~such the~~ rooms or space ~~be are~~ occupied or not, may be vacated, assigned, and reassigned by the
3 Governor to such departments, divisions, agencies, and officers of the Commonwealth as the Governor ~~shall deem deems~~
4 proper. ~~Nothing herein contained, however, shall authorize the~~ The Governor shall not vacate, assign or reassign any
5 rooms or space now occupied by the Supreme Court and the justices thereof, the General Assembly, the State Corporation
6 Commission or other independent agencies, without the consent and approval of that body such bodies.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2-114.2-12.2-124. Additional powers and duties of Governor~~ Regulation of athletic leaves of absence.

9 A. The Governor shall have the following powers and duties:

10 A. Establish establish rules to provide for the regulation of athletic leaves of absence for state employees as follows:

11 1. Definitions. The following words and terms, when used in this section, shall have the following meanings:

12 (a) "Public employee" means any full-time employee of this Commonwealth or of any branch of the state
13 government, of any executive department of the Commonwealth, or of any agency, board, institution or commission of the
14 State; however, no elected official shall be considered a public employee for purposes of this subsection.

15 (b) "Athlete" means an individual who is dedicated to improving a skill or skills in a particular physical exercise, sport,
16 or game requiring strength, agility, or stamina and for whom this effort does not result in financial gain or remuneration.

17 (c) "International or Olympic competition" means any athletic competition involving athletes from two or more nation-
18 states.

19 2. Leave of absence to participate in athletic competition on the international or Olympic level.—1. A public employee
20 who qualifies as a member of the United States team for athletic competition on the Pan American or Olympic level in a sport
21 contested in such competition may be granted leave of absence upon approval of the appropriate cabinet secretary without
22 loss or reduction of pay, time, annual leave, or efficiency rating for the purpose of preparing for and engaging in competition
23 on such levels. In no event shall the paid leave under this subdivision exceed the period of the official training camp and
24 competition combined or ninety calendar days a year, whichever is less. A public employee who qualifies and applies as a
25 member of the United States team for athletic competition on the international level other than the Pan American or Olympic
26 games may be granted a leave of absence without pay.

27 3. Notification of employer.—2. A state public employee who qualifies and applies for an athletic leave of absence
28 under the provisions of this subdivision shall notify his employer of his desire for such leave at least thirty days before the
29 effective date of the leave; however, if the official training camp for international or Olympic games commences less than
30 thirty days after the employee's selection as a member of the United States team, the employee shall notify his employer of
31 his desire for athletic leave immediately upon his selection as a member of such team.

32 4. Cancellation of leave.—3. All or any portion of the approved athletic leave of absence provided for in this
33 subdivision may be canceled retroactively by the employer if the employee does not participate in the training or competition
34 for approved reasons or for reasons that are unrelated to the physical and/or mental ability to compete.

35 5. Reimbursement of costs for substitute.—4. If the absence of a state employee necessitates the hiring of a
36 substitute during the employee's absence, the Commonwealth shall reimburse the governmental branch, department, agency,
37 board, institution, or commission of ~~this the~~ Commonwealth for actual costs incurred in employing the substitute.

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

39 "Public employee" means any full-time employee of the Commonwealth or of any branch of the state government, of
40 any executive department of the Commonwealth, or of any agency, board, institution or commission of the State; however, no
41 elected official shall be considered a public employee for purposes of this section.

42 "Athlete" means an individual who is dedicated to improving a skill or skills in a particular physical exercise, sport, or
43 game requiring strength, agility, or stamina and for whom this effort does not result in financial gain or remuneration.

44 "International or Olympic competition" means any athletic competition involving athletes from two or more nation-
45 states.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 0-84.4 2.2-125.~~ Governor authorized to accept certain property from Confederate Memorial Literary Society.

48 A. The Governor ~~is hereby authorized to may~~ accept, in the name of the Commonwealth, the property known as The
49 White House of the Confederacy, any building or buildings which that may be erected by the Confederate Memorial Literary
50 Society, and the property known as The Lee House, located at 707 East Franklin Street in the City of Richmond, together with
51 any moneys or other assets, including items being housed and displayed in such buildings or any of them, belonging to the
52 Confederate Memorial Literary Society.

53 The buildings and their contents thereof shall thereafter be preserved and maintained for historic purposes by the
54 Commonwealth. Upon the transfer of title to the property to the Commonwealth, the Governor shall appoint a board of
55 trustees consisting of thirteen persons appointed from the Commonwealth at large, which shall thereafter be charged with the
56 preservation and maintenance of the properties and the administration of any funds which that may be received or donated by

1 the Confederate Memorial Literary Society or from any other source. The members of the board first appointed shall be
2 appointed as follows: four for terms of four years, four for terms of three years, four for terms of two years, and one for a term
3 of one year. Subsequent appointments shall be for terms of four years except appointments to fill vacancies, which shall be
4 for the unexpired terms.

5 The board shall appoint a treasurer, who shall have custody of its funds and shall be bonded in such amount as the
6 board may determine. Expenditures from such funds shall be made by the treasurer as the board directs, for any purpose, in
7 the discretion of the board, consonant with the purpose for which the same are donated.

8 The board may fix, charge and collect admission fees to the buildings under its custody and control, and expend
9 moneys so received in the upkeep, maintenance and operation of such buildings as historic shrines.

10 **DRAFTING NOTE:** This proposed section represents a merger of the following existing sections: Subsection A is § 9-84.1; B
11 is § 9-84.2; C is § 9-84.3; and D is § 9-84.4. The existing sections relating to the White House of the Confederacy were
12 added to the Code by Chapter 412 of the 1966 Act.

13 ~~§ 9-84.2. Preservation and maintenance of such property; board of trustees.~~

14 ~~Such buildings and the contents thereof shall thereafter be preserved and maintained for historic purposes by the~~
15 ~~Commonwealth. Upon the transfer of title to such property to the Commonwealth, the Governor shall appoint a board of~~
16 ~~trustees consisting of thirteen persons appointed from the Commonwealth at large, which shall thereafter be charged with the~~
17 ~~preservation and maintenance of such properties and the administration of any funds which may be received or donated by~~
18 ~~the Confederate Memorial Literary Society or from any other source. The members of such board first appointed shall be~~
19 ~~appointed four for terms of four years, four for terms of three years, four for terms of two years, and one for a term of one~~
20 ~~year. Subsequent appointments shall be for terms of four years except appointments to fill vacancies, which shall be for the~~
21 ~~unexpired terms.~~

22 **DRAFTING NOTE:** This section has been merged into proposed § 2.2-125 as new subsection B.

23 ~~§ 9-84.3. Treasurer of board; bond; expenditures.~~

24 ~~The board shall appoint a treasurer, who shall have custody of its funds and shall be bonded in such amount as the~~
25 ~~board may determine. Expenditures from such funds shall be made by the treasurer as the board directs, for any purpose, in~~
26 ~~the discretion of the board, consonant with the purpose for which the same are donated.~~

27 **DRAFTING NOTE:** This section has been merged into proposed § 2.2-125 as new subsection C.

28 ~~§ 9-84.4. Admission fees.~~

29 ~~The board is authorized to fix and charge, and collect, admission fees to the buildings under its custody and control,~~
30 ~~and to expend moneys so received in the upkeep, maintenance and operation of such buildings as historic shrines.~~

31 **DRAFTING NOTE:** This section been merged into proposed § 2.2-125 has as new subsection D.

32 ~~§ 2-1-45 2.2-126. Disposition of official correspondence.~~

33 ~~A. The Governor preceding Before the end of his term of office, the Governor shall have delivered to The Library of~~
34 ~~Virginia for safekeeping all correspondence and other records of his office during his term; ~~provided that this.~~ This section~~
35 ~~shall not apply to correspondence or other records of a personal or private nature, or active files necessary for the transaction~~
36 ~~of business by the Office of the Governor, the decision thereon to be made by the Governor. Records delivered to The Library~~
37 ~~of Virginia shall be made accessible to the public, once ~~appropriate~~ cataloging has been completed.~~

38 ~~B. Should any subsequent Governor need such records for the transaction of business of the Office of the Governor,~~
39 ~~such the records may be reviewed at the Library and copied, if necessary, but the Governor and his staff shall ~~assure~~ ensure~~
40 ~~that the original records are preserved intact and remain in The Library of Virginia.~~

41 **DRAFTING NOTE:** Technical corrections only.

42 Article 2.

43 Executive Reorganization.

44 ~~§ 2-1-8-1 2.2-127. Purpose.~~

45 The Governor shall from time to time examine the organization of all executive agencies and shall determine what
46 changes therein are necessary to ~~accomplish the following purposes:~~

47 ~~A. To promote the 1. Promote better execution of the laws, the more effective management of the executive branch~~
48 ~~of state government and of its agencies and functions, and the expeditious administration of the public business;~~

49 ~~B. To reduce 2. Reduce expenditures and promote economy to the fullest extent consistent with the efficient~~
50 ~~operation of state government;~~

51 ~~C. To increase 3. Increase the efficiency of the operations of state government to the fullest extent practicable;~~

~~D. To group~~ 4. Group, coordinate, and consolidate agencies and functions of state government, as nearly as may be, according to major purposes;

3 ~~E. To reduce~~ 5. Reduce the number of agencies by consolidating those having similar functions under a single head,
4 and to abolish such agencies or functions thereof ~~as may not be~~ which that are not necessary for the efficient conduct of the
5 state government; and

6 ~~F. To eliminate~~ 6. Eliminate overlapping and duplication of effort.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2-1-8-2~~ 2.2-128. Definitions.

9 For the purpose of this chapter--:

10 A. "Agency" means ~~any~~ an administrative unit of state government, including any "department," "institution,"
11 "commission," "board," "council," "authority," or other ~~such~~ body, however designated.

12 B. "Board" means any collegial body in the executive branch of state government created by the General Assembly.

13 ~~C. "Function"~~ means an activity, assignment or set of operations.

14 D. "Reorganization" means a transfer, consolidation, coordination, or abolition of a function, or the assignment or
15 reassignment of responsibility and authority for the execution of a function.

16 **DRAFTING NOTE:** Technical corrections only.

17 ~~§ 2-1-8-3~~ 2.2-129. Reorganization plans.

18 When the Governor, after investigation, finds that the:

19 ~~A. The transfer~~ 1. Transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to
20 the jurisdiction and control of another agency;

21 ~~B. The abolition~~ 2. Abolition of all or a part of the functions of an agency;

22 ~~C. The transfer~~ 3. Transfer or abolition of the whole or a part of the responsibilities of a board;

23 ~~D. The abolition~~ 4. Abolition of a board;

24 ~~E. The consolidation~~ 5. Consolidation or coordination of the whole or a part of an agency, or of the whole or a part of
25 the functions thereof, with the whole or a part of another agency or the functions thereof;

26 ~~F. The consolidation~~ 6. Consolidation or coordination of a part of an agency or the functions thereof with another part
27 of the same agency or the functions thereof;

28 ~~G. The abolition~~ 7. Abolition of the whole or a part of an agency which agency or part does not have, or on the taking
29 effect of the reorganization plan will not have, any functions; or

30 ~~H. The authorization~~ 8. Authorization for the exercise of functions or responsibilities by an agency, board, or officer to
31 whom such functions or responsibilities have been transferred; is necessary to accomplish one or more of the purposes of §
32 2-1-8-4 2.2-127, he shall prepare a plan for reorganization and transmit ~~such~~ the plan to each house of the General Assembly
33 at least forty-five days prior to the commencement of a regular or special session of the General Assembly.

34 **DRAFTING NOTE:** Technical corrections only.

35 ~~§ 2-1-8-4~~ 2.2-130. Contents of reorganization plans.

36 A reorganization plan transmitted by the Governor under § 2-1-8-3 2.2-129-:

37 1. May change the name or title of any agency, agency head, or board, council, commission or other collegial body
38 affected by a reorganization, and shall designate the name or title of any new agency, agency head, or collegial body
39 resulting from a reorganization;

40 2. May provide for the appointment of the head of any agency affected by, or resulting from, a reorganization, for an
41 initial term not to exceed the balance of the term of the incumbent Governor, and for four-year terms thereafter;

42 3. May provide for the compensation of the head of an agency, not to exceed the rate found by the Governor to be
43 applicable to comparable officers in the executive branch;

44 4. Shall provide for the transfer or other disposition of the records, property, and personnel affected by a
45 reorganization;

46 5. Shall provide for the transfer of such unexpended balances of appropriations, and other funds, available for use in
47 connection with a function or agency affected by a reorganization, or for the use of the agency ~~which that shall have~~ has the
48 functions after the reorganization plan is effective. However, the unexpended balances so transferred may be used only for
49 the purposes for which the appropriation was originally made; and

6. Shall provide for terminating the affairs of an agency ~~which that~~ is abolished.

50 **DRAFTING NOTE:** Technical corrections only.

1 ~~§ 2.1-8.6 2.2-131.~~ Limitation on powers.

2 A reorganization plan may not provide for, and a reorganization under this chapter ~~may~~ shall not have the effect
3 authorizing an agency to exercise a function ~~which that~~ is not authorized by law at the time the plan is transmitted to
4 General Assembly.

5 **DRAFTING NOTE:** Technical corrections only.

6 ~~§ 2.1-8.6 2.2-132.~~ Approval by the General Assembly; effective date; publication.

7 A. A reorganization plan transmitted by the Governor to the General Assembly under this chapter shall become
8 effective only if the Senate and the House of Delegates each approve ~~such the~~ reorganization plan by a resolution by a
9 majority of the members present and voting in each house. Any portion of ~~such the~~ reorganization plan may be deleted by
10 either the Senate or the House of Delegates in the resolution approving the plan. The Governor may withdraw a
11 reorganization plan transmitted to the General Assembly under this chapter at any time before ~~the its~~ effective date ~~thereof~~. A
12 reorganization plan or portions thereof as approved by the Senate and the House of Delegates shall become effective on the
13 first day of the fourth month following the adjournment of the General Assembly at which such plan ~~has been was~~ approved,
14 unless a different date is specified in the plan.

15 B. A reorganization plan that is adopted pursuant to this section shall be printed in the Acts of Assembly and in the
16 Code of Virginia.

17 **DRAFTING NOTE:** Technical corrections only. This section is comprised of §2.1-8.6 as subsection A and § 2.1-8.7 as
18 subsection B.

19 ~~§ 2.1-8.7. Publication of effective reorganization plan.~~

20 ~~A reorganization plan which is effective shall be printed in the Acts of Assembly and in the Code of Virginia.~~

21 **DRAFTING NOTE:** Technical corrections only. This section now appears as new subsection B proposed § 2.2-132.

22 ~~§ 2.1-8.8 2.2-133.~~ Effect on other laws, pending legal proceedings, and unexpended appropriations.

23 A. A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of
24 or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization,
25 has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the
26 abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation or
27 action has vested the functions in the agency from which it is removed under the reorganization plan, the function, in so
28 far as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function
29 is placed by the plan.

30 B. For the purpose of subsection A ~~of this section~~, "regulation or other action" means a regulation, rule, order, policy,
31 determination, directive, authorization, permit, privilege, requirement, designation, or other action.

32 C. A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the
33 Commonwealth or member of a state board, council, commission or other collegial body, in his official capacity or in relation
34 to the discharge of his official duties, ~~does shall~~ not abate by reason of the taking effect of a reorganization plan under this
35 chapter.

36 D. The appropriations or portions of appropriations unexpended by reason of the operation of this chapter ~~may shall~~
37 not be used for any purpose, but shall revert to the state treasury.

38 **DRAFTING NOTE:** Technical corrections only.

39 Article 3.

40 Gubernatorial Commissions.

41 ~~§ 2.1-51.35. Definition of gubernatorial commission.~~

42 ~~For the purpose of this chapter, a "gubernatorial commission" is any temporary study group, task force, blue ribbon~~
43 ~~panel or any similar collegial body created by the Governor.~~

44 **DRAFTING NOTE:** This section now appears as proposed § 2.2-134 as subsection B.

45 ~~§ 2.1-51.36 2.2-134.~~ Authority to create gubernatorial commissions.

46 A. The Governor ~~shall have the authority to~~ may create gubernatorial commissions for purposes related to his
47 authority and responsibility. These entities shall be referred to as "Commissions," ~~and shall be so named.~~

48 B. For the purpose of this chapter, "gubernatorial commission" includes any temporary study group, task force, blue
49 ribbon panel or any similar collegial body created by the Governor.

50 **DRAFTING NOTE:** This proposed section represents a merger of existing §§ 2.1-51.36 and 2.1-51.35 as proposed
51 subsections A and B, respectively.

1 § 2.1-51.37 2.2-135. Limitations and requirements.

2 ~~The following limitations and requirements shall apply to all gubernatorial commissions:~~

3 4A. Each gubernatorial commission shall be created by executive order. The executive order shall specify: (i) the
4 specific duties of the commission; (ii) the date of creation; (iii) the date of expiration; (iv) the sources from which staff
5 support are to be provided and a reasonable estimate of the amount of staff support expected over the lifetime of the
6 commission; (v) an estimate of the costs to be incurred; and (vi) the source of funding.

7 2B. Funding for gubernatorial commissions shall be provided only from funds (i) appropriated for the Governor's
8 discretionary use ~~or by funds~~, (ii) appropriated for the purposes for which the task force was established, or ~~from funds~~ (iii)
9 contributed by the private sector for the purposes for which the task force was established. Staff support for gubernatorial
10 commissions may be provided by agencies or institutions with ~~closely and definitely~~ related purposes.

11 3C. Gubernatorial commissions shall be created for a period not to exceed one year. Upon reevaluation, a
12 commission may be extended one time by issuance of a new executive order for a period not to exceed one additional year.
13 A commission ~~may shall~~ not extend beyond the term of the Governor under whom it is created.

14 4D. The Governor shall make a report every six months to the Senate Committee on Finance and House Committee
15 on Appropriations Committee specifying for each gubernatorial commission the amount and costs of staff support provided
16 and the sources of ~~such the~~ staff support.

17 **DRAFTING NOTE:** Technical corrections only.

18 Article 4.

19 Security of Government Databases.

20 § 2.1-563.42 2.2-136. Governor to designate the responsible entity.

21 To ensure the security of state government databases and data communications from unauthorized uses, intrusions,
22 or other security threats, the Governor shall direct an appropriate government entity to be responsible for conducting security
23 audits.

24 **DRAFTING NOTE:** Technical corrections. This proposed article and section is from existing Article 9 of Chapter 35.2,
25 Information Technology and has been relocated here because it deals with the duties of the Governor.

26 § 2.1-563.43 2.2-137. Powers and duties of the designated entity.

27 The government entity so designated by the Governor under this article shall perform or cause to be performed
28 periodic audits of all executive branch agencies and institutions of higher education regarding security procedures for
29 protecting the government databases and data communications. Such audits may include, but are not limited to, on-site
30 audits as well as reviews of all written security procedures. The designated entity may contract with a private firm or firms that
31 specialize in conducting such audits subject to approval of the Governor.

32 **DRAFTING NOTE:** Technical corrections. This proposed section is from existing Article 9 of Chapter 35.2, Information
33 Technology and has been relocated here because it deals with the duties of the Governor.

34 § 2.1-563.44 2.2-138. Government entities to cooperate.

35 All government entities subject to such audits as required by this article shall fully cooperate with the entity
36 designated to perform such audits.

37 **DRAFTING NOTE:** Technical corrections. This proposed section is from existing Article 9 of Chapter 35.2, Information
38 Technology, and has been relocated here because it deals with the duties of the Governor.

39 CHAPTER 2.

40 GOVERNOR'S SECRETARIES.

41 Article 1.

42 General Provisions.

43 § 2.2-200. Appointment of Governor's Secretaries; general powers.

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

49 B. Each Secretary shall be subject to direction and supervision by the Governor. Except as provided in Article 5 (§
50 2.2-208 et seq.) of this chapter, the agencies assigned to each Secretary shall:

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

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

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

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

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

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

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

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

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

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

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

19 **DRAFTING NOTE:** This new section represents the consolidation of the various, repetitive existing sections dealing with the
20 appointment of each Secretary and their general powers, except the Secretary of Education whose general powers and
21 duties are set out separately in proposed § 2.2-208. New subsection D in this proposed section was added to define the
22 Governor's Secretaries.

23 ~~§ 2.1-51.10. Compensation.~~

24 ~~Each Secretary shall be paid such compensation as the Governor may fix.~~

25 **DRAFTING NOTE:** This section now appears as subsection B in proposed § 2.2-201.

26 ~~§ 2.1-51.10:4 2.2-201. Secretaries; general; compensation.~~

27 ~~A. Each Secretary shall be considered an extension of the Governor in the management coordination and cohesive~~
28 ~~direction of the ~~Executive Department~~ executive branch of state government ensuring that the laws are faithfully executed.~~

29 ~~B. Each Secretary shall be paid the compensation fixed by law.~~

30 **DRAFTING NOTE:** Technical corrections. This section represents a merger of existing §§ 2.1-51.10:1 and 2.1-51.10 as
31 subsections A and B, respectively.

32 ~~§ 2.1-51.12 2.2-202. Payment of expenses of office.~~

33 ~~The expenses of the offices of the Governor's Secretaries shall be paid from funds provided for the purpose by law;~~
34 ~~provided, however, that in addition thereto, the Governor may supplement such funds from appropriations made to his office~~
35 ~~for the executive control of the Commonwealth or for discretionary purposes.~~

36 **DRAFTING NOTE:** Technical corrections only.

37 Article 2.

38 Secretary of Administration.

39 ~~§ 2.1-51.25 2.2-203. Position established; appointment; term; oath agencies for which responsible.~~

40 ~~The position of Secretary of Administration (the "Secretary") is hereby created. The Secretary shall be appointed by~~
41 ~~the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in~~
42 ~~session, then at its next succeeding session. The Secretary shall hold office at the pleasure of the Governor for a term~~
43 ~~coincident with that of the Governor making the appointment or until a successor shall be appointed and qualified. Before~~
44 ~~entering upon the discharge of duties, the Secretary shall take an oath to faithfully execute the duties of the office. The~~
45 ~~Secretary shall be responsible to the Governor for the following agencies and boards: Department of Human Resource~~
46 ~~Management, Department of General Services, Department for the Rights of Virginians with Disabilities, Compensation~~
47 ~~Board, Secretary of the Commonwealth, Department of Employment Dispute Resolution, Department of Veterans' Affairs,~~
48 ~~Virginia Veterans Care Center Board of Trustees, Commission on Local Government, Charitable Gaming Commission, and~~
49 ~~Virginia Public Broadcasting Board. The Governor may, by executive order, assign any other state executive agency to the~~
50 ~~Secretary, or reassign any agency listed above to another Secretary.~~

51 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
52 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in Article 1, general provisions.
53 The new language comes from existing § 2.1-51.27, with the deletion of the reference to the Council on Information

3 Management that was abolished by Chapter 412 of the 1999 Acts of Assembly, and the Department of Information
4 Technology that was reassigned to the Secretary of Technology also by Chapter 412 of the 1999 Acts of Assembly. On the
5 recommendation of the Secretary of Health and Human Resources, the Department for the Rights of Virginians with
6 Disabilities was added to the agencies under the Secretary of Administration since the Governor transferred the Department
for the Rights of Virginians with Disabilities from the Secretary of Health and Human Resources to the Secretary of
Administration.

7 ~~§ 2.1-51.26. Subject to supervision by Governor; powers and duties~~

8 ~~A. The Secretary of Administration shall be subject to direction and supervision by the Governor. The agencies~~
9 ~~assigned to the Secretary shall:~~

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

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

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

14 ~~B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:~~

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

17 ~~2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.1-308~~
18 ~~encompassing the services of agencies assigned for consideration by the Governor;~~

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

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

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

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

DRAFTING NOTE: Technical corrections only. The stricken language has been consolidated with other like provisions into
proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in Article 1, general provisions.

28 ~~§ 2.1-51.27. Agencies for which responsible.~~

29 ~~The Secretary of Administration shall be responsible to the Governor for the following agencies and boards:~~
30 ~~Department of Human Resource Management, Department of General Services, Compensation Board, Secretary of the~~
31 ~~Commonwealth, Department of Employment Dispute Resolution, Department of Veterans' Affairs, Virginia Veterans Care~~
32 ~~Center Board of Trustees, Commission on Local Government, Charitable Gaming Commission, and Virginia Public~~
33 ~~Broadcasting Board. The Governor may, by executive order, assign any other state executive agency to the Secretary of~~
34 ~~Administration, or reassign any agency listed above to another secretary.~~

35 **DRAFTING NOTE:** Technical corrections only. This section now appears in proposed § 2.2-203 as the new language at the
36 end of that section.

37 Article 3.

38 Secretary of Commerce and Trade.

39 ~~§ 2.1-51.38 2.2-204. Position established; appointment; term; oath agencies for which responsible; additional duties.~~

40 ~~The position of Secretary of Commerce and Trade, formerly known as Secretary of Economic Development, is~~
41 ~~hereby continued, and wherever "Secretary of Economic Development" is used in this Code, it shall mean the Secretary of~~
42 ~~Commerce and Trade (the "Secretary") is created. The Secretary shall be appointed by the Governor, subject to confirmation~~
43 ~~by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding~~
44 ~~session. The Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making~~
45 ~~the appointment or until a successor shall be appointed and qualified. Before entering upon the discharge of duties the~~
46 ~~Secretary shall take an oath to faithfully execute the duties of the office. The Secretary shall be responsible to the Governor~~
47 ~~for the following agencies: Department of Business Assistance, Department of Forestry, Virginia Economic Development~~
48 ~~Partnership Authority, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and~~
49 ~~Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Milk Commission,~~
50 ~~Department of Agriculture and Consumer Services, Department of Housing and Community Development, Department of~~
51 ~~Minority Business Enterprise, Virginia Housing Development Authority, Virginia Resources Authority, Virginia Racing~~
52 ~~Commission, Tobacco Indemnification and Community Revitalization Commission, Virginia Agricultural Council, and Virginia~~
53 ~~Marine Products Board. The Governor, by executive order, may assign any state executive agency to the Secretary, or~~
54 ~~reassign any agency listed in this section to another Secretary.~~

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

1 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
2 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; In Article 1, general provision:
3 The new language in the first paragraph comes from existing § 2.1-51.40. The second paragraph comes from existing § 2.
4 51.39:2. The Commission for the Arts has been reassigned to the Secretary of Education at his recommendation, with the
5 concurrence of the Secretary of Commerce and Trade, to reflect actual practice.

6 ~~§ 2.1-51.39. Subject to supervision by Governor; powers and duties.~~

7 ~~A. The Secretary of Commerce and Trade shall be subject to direction and supervision by the Governor. The~~
8 ~~agencies assigned to the Secretary shall:~~

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

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

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

13 ~~B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:~~

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

16 ~~2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.1-308~~
17 ~~encompassing the services of agencies assigned for consideration by the Governor;~~

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

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

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

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

25 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
26 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; In Article 1, general provisions.

27 ~~§ 2.1-51.39:~~ 2.2-205. Economic development policy for the Commonwealth.

28 A. During the first year of each new gubernatorial administration, the Secretary, with the assistance of a cabinet-level
29 committee appointed by the Governor in accordance with subsection B, shall develop and implement a written comprehensive
30 economic development policy for the Commonwealth. In developing this policy, the Secretary and the committee shall review
31 the economic development policy in effect at the commencement of the Governor's term of office. The Secretary shall make
32 such revisions to the existing policy as the Secretary may deem ~~deems~~ necessary to ensure that it is appropriate for the
33 Commonwealth. Once the policy has been adopted by the Secretary and the committee and approved by the Governor, it
34 shall be submitted to the General Assembly for its consideration.

35 B. During the first year of each new gubernatorial administration, the Governor shall issue an executive order
36 creating a cabinet-level committee to assist the Secretary in the development of the comprehensive economic development
37 policy for the Commonwealth. The Secretary of Commerce and Trade shall be the chairman of the committee, and the
38 Secretaries of Administration, Education, Health and Human Resources, Natural Resources and Transportation shall serve
39 as committee members. The Governor may also appoint members of regional and local economic development groups and
40 members of the business community to serve on the committee.

41 **DRAFTING NOTE:** Technical corrections only.

42 ~~§ 2.1-51.39:~~ 2.2-206. Urban issues; report; identifying nonstate resources; impact of state policies; responsibilities of
43 the Secretary.

44 A. In order to evaluate and promote the economic potential and development of the urban areas in the
45 Commonwealth, the Secretary shall present biennially in even-numbered years to the General Assembly a report
46 summarizing the major state programs and policies affecting economic growth and stability in these urban areas. The report
47 shall include results related to the Regional Competitiveness Act (§ 15.2-1306 et seq.). All agencies and institutions of the
48 Commonwealth that have responsibility for urban affairs shall assist in the preparation of this report upon request by the
49 Secretary of Commerce and Trade.

50 B. The Secretary, with the support of the Virginia Liaison Office, shall identify and provide information in the biennial
51 report on federal and private sector sources of funding for projects and programs directed to conditions and opportunities in
52 fiscally stressed urban areas.

53 **DRAFTING NOTE:** Technical corrections only.

54 ~~§ 2.1-51.40. Agencies for which Secretary of Commerce and Trade responsible.~~

1 ~~The Secretary shall be responsible to the Governor for the following agencies: Department of Business Assistance,~~
2 ~~Department of Forestry, Virginia Economic Development Partnership, Department of Labor and Industry, Department of~~
3 ~~Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation,~~
4 ~~Milk Commission, Department of Agriculture and Consumer Services, Department of Housing and Community Development,~~
5 ~~Department of Minority Business Enterprise, Virginia Agricultural Council, Commission for the Arts, and Virginia Marine~~
6 ~~Products Board.~~

7 ~~The Governor, by executive order, may assign any state executive agency to the Secretary of Commerce and Trade,~~
8 ~~or reassign any agency listed in this section to another secretary.~~

9 **DRAFTING NOTE:** Technical corrections only. The stricken language now appears as proposed § 2.2-204.

10 ~~§ 2.1-51.30:2, Virginia Biotechnology Research Act, responsibilities of the Secretary.~~

11 ~~The Secretary of Commerce and Trade shall implement the provisions of the Virginia Biotechnology Research Act (§~~
12 ~~2.1-760 et seq.).~~

13 **DRAFTING NOTE:** Technical corrections only. This section has been moved as the last paragraph in proposed § 2.2-204.

14 ~~§ 2.1-51.40:4 2.2-207.~~ Annual legislative report.

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

19 **DRAFTING NOTE:** Technical corrections only.

20 Article 4.

21 Secretary of Education.

22 ~~§ 2.1-51.10 2.2-208.~~ Position established; appointment; term; oath; agencies for which responsible; powers and
23 duties.

24 The position of Secretary of Education (the "Secretary") is ~~hereby created. He shall be appointed by the Governor,~~
25 ~~subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its~~
26 ~~next succeeding session. He shall hold office at the pleasure of the Governor for a term coincident with that of the Governor~~
27 ~~making the appointment or until his successor shall be appointed and qualified. Before entering upon the discharge of his~~
28 ~~duties, he shall take an oath that he will faithfully execute the duties of the office.~~ The Secretary shall be responsible to the
29 Governor for the following agencies: Department of Education, State Council of Higher Education, Virginia Student
30 Assistance Authorities, Virginia Museum of Fine Arts, The Science Museum of Virginia, Frontier Culture Museum of Virginia,
31 The Library of Virginia, Jamestown-Yorktown Foundation, Board of Regents of Gunston Hall, the Commission for the Arts,
32 and the Virginia Advisory Council for Adult Education and Literacy. The Governor may, by executive order, assign any other
33 state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

34 Unless the Governor expressly reserves such a power to himself, the Secretary is empowered to resolve
35 administrative, jurisdictional or policy conflicts between any agencies or officers for which he is responsible and to provide
36 policy direction for programs involving more than a single agency. He is authorized to direct the preparation of alternative
37 policies, plans and budgets for education for the Governor and, to that end, may require the assistance of the agencies for
38 which he is responsible. He shall direct the formulation of a comprehensive program budget for cultural affairs encompassing
39 the programs and activities of the agencies involved in cultural affairs.

40 **DRAFTING NOTE:** Technical corrections. The stricken language has been consolidated with other like provisions into
41 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor’s Secretaries; in Article 1, general provisions.
42 The new language in the first paragraph comes from existing § 2.1-51.21. The powers listed in the last paragraph of this
43 proposed section comes from existing § 2.1-51.20 and are powers granted specifically to the Secretary of Education.
44 Commission for the Arts transferred on recommendation of Secretary of Education, with the concurrence of the Secretary of
45 Commerce and Trade, to reflect actual practice.

46 ~~§ 2.1-51.20. Subject to supervision by Governor, powers and duties.~~

47 ~~The Secretary of Education shall be subject to direction and supervision by the Governor. Unless the Governor~~
48 ~~expressly reserves such a power to himself, the Secretary is empowered to resolve administrative, jurisdictional or policy~~
49 ~~conflicts between any agencies or officers for which he is responsible and to provide policy direction for programs involving~~
50 ~~more than a single agency. He is authorized to direct the preparation of alternative policies, plans and budgets for education~~
51 ~~for the Governor and, to that end, may require the assistance of the agencies for which he is responsible. He shall direct the~~
52 ~~formulation of a comprehensive program budget for cultural affairs encompassing the programs and activities of the agencies~~
53 ~~involved in cultural affairs.~~

54 **DRAFTING NOTE:** Technical corrections only. The stricken language has been moved to proposed § 2.2-208 as the last full
55 paragraph.

1 ~~§ 2.1-51.21. Agencies for which responsible.~~

2 ~~The Secretary of Education shall be responsible to the Governor for the following agencies: Department of~~
3 ~~Education, State Council of Higher Education, Virginia Museum of Fine Arts, The Science Museum of Virginia, Frontier~~
4 ~~Culture Museum of Virginia, The Library of Virginia, Jamestown-Yorktown Foundation, Board of Regents of Gunston Hall, the~~
5 ~~Virginia Advisory Council for Adult Education and Literacy, and the Virginia Workforce Council. The Governor may, by~~
6 ~~executive order, assign any other state executive agency to the Secretary of Education, or reassign any agency listed above~~
7 ~~to another secretary.~~

8 **DRAFTING NOTE:** Technical corrections only. The stricken language has been moved to proposed § 2.2-208 as the new
9 language in the first paragraph.

10 ~~§ 2.1-51.21:4~~ 2.2-209. Program established; objectives.

11 The Virginia Business-Education Partnership Program is ~~hereby~~ established within the Office of the Secretary of
12 Education and shall be referred to in this chapter as the Program. ~~The include the following primary objectives of the~~
13 ~~Program shall include the following for the:~~

14 1. Expansion of business participation and involvement in public education, development of strategic education
15 reform partnerships in support of World Class Education, and enhancement of existing partnerships between the public and
16 private sectors to improve public education in the Commonwealth;

17 2. Creation of a statewide resource and referral center for the dissemination of information regarding educational
18 innovations, strategic, reform-based business and education partnerships, and other public and private sector education
19 initiatives;

20 3. Provision of training and consultation services for school divisions as appropriate;

21 4. Development and implementation of a challenge grants program to provide assistance for the establishment of
22 business and education partnership initiatives;

23 5. Administration of statewide recognition programs acknowledging exemplary business and education partnership
24 initiatives and business-education community certification programs as may be developed by the Secretary of Education; and

25 6. Establishment of standards of excellence for effective business and education partnerships and provision of
26 technical assistance for these partnerships.

27 **DRAFTING NOTE:** Technical corrections only.

28 ~~§ 2.1-51.21:2~~ 2.2-210. Annual legislative report.

29 Within sixty days prior to the beginning of each regular legislative session, the Secretary of Education and the
30 Secretary of Commerce and Trade shall jointly present a report to the General Assembly summarizing private sector and
31 education partnership programs and recommendations to promote efficiency and growth in business and education
32 partnerships.

33 **DRAFTING NOTE:** Technical corrections only.

34 Article 5.

35 Secretary of Finance.

36 ~~§ 2.1-51.32~~ 2.2-211. Position established; ~~appointment; term; oath~~ agencies for which responsible; additional
37 powers.

38 A. The position of Secretary of Finance (the "Secretary") is hereby created. The Secretary shall be appointed by the
39 Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session,
40 then at its next succeeding session. The Secretary shall hold office at the pleasure of the Governor for a term coincident with
41 that of the Governor making the appointment or until a successor shall be appointed and qualified. Before entering upon the
42 discharge of duties, the Secretary shall take an oath to faithfully execute the duties of the office. The Secretary shall be
43 responsible for the following agencies: Department of Accounts, Department of Planning and Budget, Department of
44 Taxation, Department of the Treasury and Department of the State Internal Auditor. The Governor, by executive order, may
45 assign any other state executive agency to the Secretary of Finance, or reassign any agency listed.

46 B. To the greatest extent practicable, the agencies assigned to the Secretary shall pay all amounts due and owing
47 by the Commonwealth through electronic transfers of funds from the general fund or appropriate special fund to the bank
48 account of the payee or a party identified by law to receive funds on behalf of the payee. All wire transfer costs associated
49 with the electronic transfer shall be paid by the payee subject to exemptions authorized by the State Treasurer affecting the
50 investment, debt, and intergovernmental transactions of the Commonwealth and its agencies, institutions, boards, and
51 authorities.

52 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
53 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in Article 1, general provisions.
54 The new language in the first paragraph comes from existing § 2.1-51.34. The powers listed in the last paragraph of this

proposed section comes from subdivision A_4_ of existing § 2.1-51.33 and are powers granted specifically to the Secretary of Finance.

~~§ 2.1-51.33. Subject to supervision by Governor, powers and duties.~~

~~A. The Secretary of Finance shall be subject to direction and supervision by the Governor. The agencies assigned to the Secretary shall:~~

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

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

~~3. Forward all reports to the Governor through the Secretary; and~~

~~4. To the greatest extent practicable, pay all amounts due and owing by the Commonwealth through electronic transfers of funds from the general fund or appropriate special fund to the bank account of the payee or a party identified by law to receive funds on behalf of the payee. All wire transfer costs associated with the electronic transfer shall be paid by the payee subject to exemptions authorized by the State Treasurer affecting the investment, debt, and intergovernmental transactions of the Commonwealth and its agencies, institutions, boards, and authorities.~~

~~B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:~~

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

~~2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.1-308 encompassing the services of the agencies assigned for consideration by the Governor;~~

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

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

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

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

DRAFTING NOTE: Technical corrections only. With the exception of subdivision A_4_, the stricken language has been consolidated with other like provisions into proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor’s Secretaries; general provisions. Subdivision A_4_ has been moved to proposed § 2.2-211 as subsection B because this is a power granted specifically to the Secretary of Finance.

~~§ 2.1-51.34. Agencies for which responsible.~~

~~The Secretary of Finance shall be responsible for the following agencies: Department of Accounts, Department of Planning and Budget, Department of Taxation, Department of Treasury and Department of the State Internal Auditor. The Governor, by executive order, may assign any other state executive agency to the Secretary of Finance, or reassign any agency listed.~~

DRAFTING NOTE: Technical corrections only. The stricken language has been moved to proposed § 2.2-211 as the new language in the first paragraph.

Article 6.

Secretary of Health and Human Resources.

§ 2.1-51.13, 2.2-212. Position established; appointment; term; oath; agencies for which responsible; additional powers.

The position of Secretary of Health and Human Resources (the “Secretary”) is hereby created. The Secretary shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. The Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor shall be appointed and qualified. Before entering upon the discharge of duties, the Secretary shall take an oath to faithfully execute the duties of the office. The Secretary of Health and Human Resources shall be responsible to the Governor for the following agencies: Department of Health, Department for the Blind and Vision Impaired, Department of Health Professions, Department for the Aging, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative Services, Department of Social Services, Department of Medical Assistance Services, Council on Indians, Governor’s Employment and Training Department, Child Day-Care Council, Virginia Department for the Deaf and Hard-of-Hearing, Office of Comprehensive Services for Youth and At-Risk Youth and Families, and the Virginia Council on Coordinating Prevention. The Governor may, by executive order, assign any other state executive agency to the Secretary of Health and Human Resources, or reassign any agency listed above to another Secretary.

1 Unless the Governor expressly reserves such power to himself, the Secretary shall (i) coordinate the work of state
2 agencies to implement the long-term care policy of the Commonwealth and (ii) serve as the lead Secretary for
3 Comprehensive Services Act for At-Risk Youth and Families, working with the Secretary of Education and the Secretary
4 Public Safety to facilitate interagency service development and implementation, communication and cooperation.

5 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
6 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor’s Secretaries; in Article 1, general provisions.
7 The new language in the first paragraph comes from existing § 2.1-51.15. The powers listed in the last two paragraphs of this
8 proposed section comes from subdivisions A_ 7_ and A_ 8_ of existing § 2.1-51.14 and are powers granted specifically to the
9 Secretary of Health and Human Resources. ~~§ 2.1-51.14. Subject to supervision by Governor; powers and duties.~~

10 ~~A. The Secretary of Health and Human Resources shall be subject to direction and supervision by the Governor.~~
11 ~~The agencies assigned to the Secretary shall:~~

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

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

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

16 ~~B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:~~

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

19 ~~2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.1-308~~
20 ~~encompassing the services of agencies assigned for consideration by the Governor;~~

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

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

25 ~~5. Sign documents on behalf of the Governor which originate with agencies assigned to the Secretary;~~

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

28 ~~7. Coordinate the work of state agencies to implement the long-term care policy of the Commonwealth; and~~

29 ~~8. Serve as the lead Secretary for the Comprehensive Services Act for At-Risk Youth and Families, working with the~~
30 ~~Secretary of Education and the Secretary of Public Safety to facilitate interagency service development and implementation,~~
31 ~~communication and cooperation.~~

32 **DRAFTING NOTE:** Technical corrections only. Except for subdivision A_ 7_, the stricken language has been consolidated
33 with other like provisions into proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor’s Secretaries; in
34 Article 1, general provisions. Subdivisions A_ 7_ and A_ 8_ have been moved to proposed § 2.2-212 as the last two full
35 paragraphs because these are powers granted specifically to the Secretary of Health and Human Resources.

36 ~~§ 2.1-51.15. Agencies for which responsible.~~

37 ~~The Secretary of Health and Human Resources shall be responsible to the Governor for the following agencies:~~
38 ~~Department of Health, Department for the Visually Handicapped, Department of Health Professions, Department for the~~
39 ~~Aging, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative~~
40 ~~Services, Department of Social Services, Department for Rights of Virginians With Disabilities, Department of Medical~~
41 ~~Assistance Services, the Council on Indians, Governor’s Employment and Training Department, Child Day Care Council,~~
42 ~~Virginia Department for the Deaf and Hard of Hearing, and the Virginia Council on Coordinating Prevention. The Governor~~
43 ~~may, by executive order, assign any other state executive agency to the Secretary of Health and Human Resources, or~~
44 ~~reassign any agency listed above to another secretary.~~

45 **DRAFTING NOTE:** Technical corrections only. The stricken language has been moved to proposed § 2.2-212 as the new
46 language in the first paragraph.

47 ~~§ 2.1-51.15-1 2.2-213.~~ Secretary of Health and Human Resources to develop certain criteria.

48 In order to respond to the needs of substance abusing women and their children, the Secretary of Health and Human
49 Resources shall develop criteria for (i) enhancing access to publicly funded substance abuse treatment programs in order to
50 effectively serve pregnant substance abusers; (ii) determining when a drug-exposed child may be referred to the early
51 intervention services and tracking system available through Part H-C of the Individuals with Disabilities Education Act, 20
52 U.S.C. § 1474 1431 et seq.; (iii) determining the appropriate circumstances for contact between hospital discharge planners
53 and local departments of social services for referrals for family-oriented prevention services, when such services are availa^l
54 and provided by the local social services agency; and (iv) determining when the parent of a drug-exposed infant, who ma

1 endangering a child's health by failing to follow a discharge plan, may be referred to the child protective services unit of a
2 local department of social services.

3 The Secretary shall consult with the Commissioner of Mental Health, Mental Retardation and Substance Abuse
4 Services, the Commissioner of Social Services, the Commissioner of Health, community services boards, behavioral health
5 authorities local departments of social services, and local departments of health in developing the criteria required ~~herein~~ by
6 this section.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2.1-51.14:1 2.2-214.~~ Responsibility of certain agencies within the Secretariat; review of regulations.

9 The Boards of Health, Mental Health, Mental Retardation and Substance Abuse Services, Social Services, and
10 Medical Assistance Services and the Department of Rehabilitative Services shall review their regulations and policies related
11 to service delivery in order to ascertain and eliminate any discrimination against individuals infected with human
12 immunodeficiency virus.

13 **DRAFTING NOTE:** Technical corrections only.

14 Article 7.

15 Secretary of Natural Resources.

16 ~~§ 2.1-51.7 2.2-215.~~ Position established; appointment; term; oath agencies for which responsible.

17 The position of Secretary of Natural Resources (the "Secretary") is hereby created. ~~The Secretary shall be appointed~~
18 ~~by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in~~
19 ~~session then at its next succeeding session. The Secretary shall hold office at the pleasure of the Governor for a term~~
20 ~~coincident with that of the Governor making the appointment or until a successor shall be appointed and qualified. Before~~
21 ~~entering upon the discharge of duties, the Secretary shall take an oath to faithfully execute the duties of the office. The~~
22 ~~Secretary shall be responsible to the Governor for the following agencies: Department of Conservation and Recreation,~~
23 ~~Department of Historic Resources, Marine Resources Commission, Department of Game and Inland Fisheries, Chippokes~~
24 ~~Plantation Farm Foundation, Chesapeake Bay Local Assistance Department, Virginia Museum of Natural History and the~~
25 ~~Department of Environmental Quality. The Governor may, by executive order, assign any state executive agency to the~~
26 ~~Secretary of Natural Resources, or reassign any agency listed above to another Secretary.~~

27 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
28 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in Article 1, general provisions.
29 The new language comes from existing § 2.1-51.9.

30 ~~§ 2.1-51.8:1. Subject to supervision by Governor; powers and duties.~~

31 ~~A. The Secretary of Natural Resources shall be subject to direction and supervision by the Governor. The agencies~~
32 ~~assigned to the Secretary shall:~~

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

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

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

37 ~~B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:~~

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

40 ~~2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.1-308~~
41 ~~encompassing the services of agencies assigned for consideration by the Governor;~~

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

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

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

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

49 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
50 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in Article 1, general provisions.

51 ~~§ 2.1-51.9. Agencies for which Secretary of Natural Resources responsible.~~

52 ~~The Secretary shall be responsible to the Governor for the following agencies: Department of Conservation and~~
53 ~~Recreation, Department of Historic Resources, Marine Resources Commission, Department of Game and Inland Fisheries,~~

1 ~~Chippokee Plantation Farm Foundation, Chesapeake Bay Local Assistance Department, Virginia Museum of Natural History~~
2 ~~and the Department of Environmental Quality.~~

3 ~~The Governor may, by executive order, assign any state executive agency to the Secretary of Natural Resources, or~~
4 ~~reassign any agency listed above to another secretary.~~

5 **DRAFTING NOTE:** Technical corrections only. The stricken language has been moved to proposed § 2.2-215 as the new
6 language in the first paragraph.

7 ~~§ 2-1-51.8:2~~ 2.2-216. Duty to monitor and report on water and resources of Chesapeake Bay and its tributaries.

8 The Secretary of Natural Resources shall cooperate with appropriate state and federal agencies in the development
9 and implementation of a comprehensive program to monitor the quality of the waters and the living resources of the
10 Chesapeake Bay and its tributaries. The Secretary shall report biennially in even-numbered years to the General Assembly
11 on the results of this monitoring program and the status of the resources of the Chesapeake Bay and its tributaries.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2-1-51.8:3~~ 2.2-217. Friend of the Bay Award.

14 The Secretary of Natural Resources shall establish the "Friend of the Bay Award" program. The program shall
15 annually recognize those individuals, businesses, organizations and other entities ~~which that~~ have made significant efforts to
16 preserve and enhance the Chesapeake Bay and its tributaries. The program shall make such awards on a noncompetitive
17 basis, using criteria to be developed by the Secretary of Natural Resources, in consultation with those agencies within the
18 Secretariat, the Virginia delegation to the Chesapeake Bay Commission and the Citizens Advisory Committee to the
19 Chesapeake Executive Council.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 2-1-51.12:1~~ 2.2-218. Development of strategies to restore the water quality and living resources of the
22 Chesapeake Bay and its tributaries.

23 The Secretary of Natural Resources shall coordinate the development of tributary plans designed to improve water
24 quality and restore the living resources of the Chesapeake Bay and its tributaries. ~~Such plans~~ Each plan shall be tributary-
25 specific in nature and prepared for the Potomac, Rappahannock, York, and James River Basins as well as the western
26 coastal basins (comprising the small rivers on the western Virginia mainland that drain to the Chesapeake Bay, not including
27 the Potomac, Rappahannock, York and James Rivers) and the eastern coastal basin (encompassing the creeks and rivers of
28 the Eastern Shore of Virginia that are west of U.S. Route 13 and drain to the Chesapeake Bay). Each plan shall (i) address
29 the reduction of nutrients and suspended solids, including sediments, entering the Chesapeake Bay and its tributaries. ~~Each~~
30 ~~plan shall also~~ and (ii) summarize other existing programs, strategies, goals and commitments for reducing toxics; the
31 preservation and protection of living resources; and the enhancement of the amount of submerged aquatic vegetation, for
32 each tributary basin and the Bay. The plans shall be developed in consultation with affected stakeholders, including, but not
33 limited to, local government officials; wastewater treatment operators; seafood industry representatives; commercial and
34 recreational fishing interests; developers; farmers; local, regional and statewide conservation and environmental interests; the
35 Virginia Chesapeake Bay Partnership Council; and the Virginia delegation to the Chesapeake Bay Commission.

36 **DRAFTING NOTE:** Technical corrections only.

37 ~~§ 2-1-51.12:2~~ 2.2-219. Tributary plan content; development timelines.

38 A. Each tributary plan developed pursuant to ~~§ 2-1-51.12:1~~ 2.2-218 shall include the following:

39 1. Recommended specific strategies, goals, commitments and methods of implementation designed to achieve the
40 nutrient goals of the 1987 Chesapeake Bay Agreement and the 1992 amendments to that agreement signed by the
41 Governors of Virginia, Maryland, and Pennsylvania, the Mayor of the District of Columbia, the Administrator of the United
42 States Environmental Protection Agency and the Chairman of the Chesapeake Bay Commission, collectively known as the
43 Chesapeake Executive Council.

44 2. Recommended specific strategies, goals, commitments and methods of implementation to achieve sediment and
45 suspended solids reductions from nonpoint sources sufficient to achieve living resource goals, particularly those related to
46 habitat conditions necessary to support submerged aquatic vegetation.

47 3. A report on progress made pursuant to the "Chesapeake Bay Basinwide Toxics Reduction and Prevention
48 Strategy" signed by the Chesapeake Executive Council on October 14, 1994, that is applicable to the tributary for which the
49 plan is prepared.

50 4. A report on progress on the "Submerged Aquatic Vegetation Restoration Goals" signed by the Chesapeake
51 Executive Council on September 15, 1993, that is applicable to the tributary for which the plan is prepared.

52 5. A report on progress related to the objectives of the "Local Government Partnership Initiative" signed by the
53 Chesapeake Executive Council on November 30, 1995.

6. Specifically identified recommended state, local and private responsibilities and actions, with associated timetables, for implementation of the plan, to include the (i) person, official, governmental unit, organization or other responsible body; (ii) specific programmatic and environmental benchmarks and indicators for tracking and evaluating implementation and progress; (iii) opportunities, if appropriate, to achieve nutrient reduction goals through nutrient trading; (iv) estimated state and local benefits derived from implementation of the proposed alternatives in the plan; (v) state funding commitments and specifically identified sources of state funding as well as a method for considering alternative or additional funding mechanisms; (vi) state incentives for local and private bodies for assisting with implementation of the plans; and (vii) estimate and schedule of costs for the recommended alternatives in each plan.

7. Scientific documentation to support the recommended actions in a plan and an analysis supporting the documentation if it differs from the conclusions used by the Chesapeake Bay Program.

8. An analysis and explanation of how and when the plan is expected to achieve the elements of subdivisions 1, 2, 3 and 4 of this subsection.

9. A process for and schedule of adjustment of the plan if reevaluation concludes that the specific nutrient reduction goals will not be met.

10. An analysis of the cost effectiveness and equity of the recommended nutrient reduction alternatives.

11. An opportunity for public comment and a public education and information program that includes but is not limited to information on specific assignments of responsibility needed to execute the plan.

B. Tributary plans shall be developed by the following dates for the:

1. Potomac River Basin, January 1, 1997.

2. Rappahannock River Basin, January 1, 1999.

3. York River Basin, July 1, 1998.

4. James River Basin, July 1, 1998.

5. Eastern and western coastal basins, January 1, 1999.

C. In developing tributary plans, the Secretary shall consider, among other factors: (i) studies relevant to the establishment of nutrient, sediment and suspended solids reduction goals; (ii) the relative contributions and impacts of point and nonpoint sources of nutrients; (iii) the scientific relationship between nutrient, sediment and suspended solids controls and the attainment of water quality goals; and (iv) estimates of costs for each publicly owned treatment works affected by point source nutrient reduction goals and estimates of costs for nonpoint source nutrient, sediment and suspended solids reduction goals.

D. In any tributary plan reevaluation, the Secretary shall consider, among other factors: (i) whether all publicly owned treatment works in the basin under consideration have either installed biological nutrient removal technology or achieved equivalent nutrient reduction by other means; (ii) total nutrient reductions achieved by nonpoint sources to the tributary; (iii) the need for additional nutrient controls for the attainment of water quality goals; (iv) a comparison between nutrient reductions achieved by point source controls and nonpoint source controls in order to equitably allocate any additional reductions; and (v) the cost effectiveness, including nutrient trading options, of any additional nutrient reduction controls.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-51.12-3~~ 2.2-220. Annual reporting.

The Secretary of ~~Natural Resources~~ shall report by November 1 of each year to the House Committee on Chesapeake and Its Tributaries, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Appropriations, the Senate Committee on Finance, the Virginia delegation to the Chesapeake Bay Commission and the Virginia Chesapeake Bay Partnership Council on progress made in the development and implementation of each plan. The annual report shall include, but not be limited to:

1. An analysis of actions taken and proposed and their relation to the timetables and programmatic and environmental benchmarks and indicators.

2. The results and analyses of quantitative or qualitative tests or studies, including but not limited to water quality monitoring and submerged aquatic vegetation surveys, which relate to actual resource improvements in each tributary. The results and analyses are to be clearly related to designated portions of each tributary.

3. A complete summary of public comments received on each plan.

4. The current or revised cost estimates for implementation of the plans.

5. The status of Virginia's strategies as compared to the development, content and implementation of tributary strategies by the other jurisdictions that are signatories to the Chesapeake Bay Agreement.

DRAFTING NOTE: Technical corrections only.

1 Article 8.

2 Secretary of Public Safety.

3 ~~§ 2.1-51.16, 2.2-221.~~ Position continued; appointment; term; oath established; agencies for which responsible.

4 The position of Secretary of Transportation and Public Safety (the "Secretary") is continued as the Secretary of
5 Public Safety created. ~~The Secretary shall be appointed by the Governor, subject to confirmation by the General Assembly if~~
6 ~~in session when the appointment is made, and if not in session, then at its next succeeding session. The Secretary shall hold~~
7 ~~office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a~~
8 ~~successor is appointed and qualified. Before entering upon the discharge of duties, the Secretary shall take an oath to~~
9 ~~faithfully execute the duties of the office. The Secretary shall be responsible to the Governor for the following agencies:~~
10 Department of Alcoholic Beverage Control, Department of Corrections, Department of Juvenile Justice, Department of
11 Correctional Education, Department of Criminal Justice Services, Virginia Parole Board, Department of Emergency
12 Management, Department of Military Affairs, Department of State Police, Department of Fire Programs and the
13 Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other state executive
14 agency to the Secretary, or reassign any agency listed above to another Secretary.

15 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
16 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in Article 1, general provisions.
17 The new language in the first paragraph comes from existing § 2.1-51.18.

18 § 2.2-222. Secretary to provide annual reports on juvenile offenders.

19 The Secretary shall provide annual reports to the Governor and the General Assembly on juvenile offender
20 demographics by offense, age, committing court, previous court contacts of offenders, and, beginning in July 1998, recidivism
21 rates of juveniles committed to agencies within the Secretariat. The annual report shall also include summaries of any juvenile
22 program evaluations completed in the previous year on programs operated by the Departments of Juvenile Justice,
23 Corrections or Criminal Justice Services and whose evaluation was directed by the General Assembly or the Secretary.

24 **DRAFTING NOTE:** Technical corrections. The requirement for an annual in this proposed section comes from subsection C
25 of existing § 2.1-51.17 and is a duty granted specifically to the Secretary of Public Safety.

26 ~~§ 2.1-51.17. Subject to supervision by Governor; powers and duties.~~

27 A. ~~The Secretary of Public Safety shall be subject to direction and supervision by the Governor. The agr~~
28 ~~assigned to the Secretary shall:~~

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

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

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

33 B. ~~Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:~~

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

36 2. ~~Direct the formulation of a comprehensive program budget for the functional area identified in § 2.1-308~~
37 ~~encompassing the services of agencies assigned for consideration by the Governor;~~

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

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

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

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

45 C. ~~The Secretary shall provide annual reports to the Governor and the General Assembly on juvenile offender~~
46 ~~demographics by offense, age, committing court, previous court contacts of offenders, and, beginning in July 1998, recidivism~~
47 ~~rates of juveniles committed to agencies within the Secretariat. The annual report shall also include summaries of any juvenile~~
48 ~~program evaluations completed in the previous year on programs operated by the Departments of Juvenile Justice,~~
49 ~~Corrections or Criminal Justice Services and whose evaluation was directed by the General Assembly or the Secretary.~~

50 **DRAFTING NOTE:** Technical corrections only. Except for subsection C, the stricken language has been consolidated with
51 other like provisions into proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in
52 Article 1, general provisions. Subsection C now appears as proposed § 2.2-222.

53 ~~§ 2.1-51.18. Agencies for which responsible.~~

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

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

6 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
7 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in Article 1, general provisions.
8 The new language in the first paragraph comes from existing § 2.1-51.46. The powers listed in the last paragraph of this
9 proposed section comes from subdivision B. 7. of existing § 2.1-51.45, with the appropriate renumbering, and are powers
10 granted specifically to the Secretary of Technology.

11 ~~§ 2.1-51.45. Subject to supervision by Governor, powers and duties.~~

12 ~~A. The Secretary of Technology shall be subject to direction and supervision by the Governor. The agencies~~
13 ~~assigned to the Secretary shall:~~

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

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

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

18 ~~B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:~~

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

21 ~~2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.1-308~~
22 ~~encompassing the services of agencies assigned for consideration by the Governor;~~

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

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

27 ~~5. Sign documents on behalf of the Governor which originate with agencies assigned to the Secretary;~~

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

30 ~~7. Have the following powers and duties concerning strategy development, planning and budgeting for technology~~
31 ~~programs in the Commonwealth:~~

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

37 ~~b. Work closely with the appropriate federal research and development agencies and program managers to~~
38 ~~maximize the participation of Commonwealth industries and universities in these programs consistent with agreed strategy~~
39 ~~goals.~~

40 ~~c. Direct the development of plans and programs for strengthening the technology resources of the~~
41 ~~Commonwealth's high technology industry sectors and for assisting in the strengthening and development of the~~
42 ~~Commonwealth's Regional Technology Councils.~~

43 ~~d. Direct the development of plans and programs for improving access to capital for technology-based~~
44 ~~entrepreneurs.~~

45 **DRAFTING NOTE:** Technical corrections only. Except for subdivision B. 7., the stricken language has been consolidated
46 with other like provisions into proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor's Secretaries; in
47 Article 1, general provisions. Subdivision B. 7., with the appropriate renumbering, has been moved to proposed § 2.2-225 as
48 the last full paragraph because it is a power granted specifically to the Secretary of Technology.

49 ~~§ 2.1-51.46. Agencies for which Secretary of Technology responsible.~~

50 ~~The Secretary of Technology shall be responsible to the Governor for the following agencies and boards:~~
51 ~~Department of Information Technology, Department of Technology Planning, Innovative Technology Authority, Virginia~~
52 ~~Geographic Information Network Advisory Board, and Virginia Information Providers Network Authority. The Governor, by~~
53 ~~executive order, may assign any other state executive agency to the Secretary of Technology, or reassign any agency listed~~
54 ~~in this section to another Secretary.~~

DRAFTING NOTE: Technical corrections only. The stricken language has been moved to proposed § 2.2-225 as the new language in the first paragraph.

3 ~~§ 2.1-51.47.~~ § 2.2-226. Secretary to function as Chief Information Officer; powers and duties.

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

6 1. ~~Employ such personnel as may be required to carry out the purposes of this chapter.~~

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

10 3. ~~2.~~ Accept grants from the United States government and agencies and instrumentalities thereof and any other
11 source. To these ends, the CIO shall have the power to comply with such conditions and execute such agreements as may
12 be necessary, convenient, or desirable.

13 4. ~~3.~~ Prescribe ~~rules and~~ regulations necessary or incidental to the performance of his duties or execution of his
14 powers.

15 5. ~~4.~~ Exercise such powers and perform such duties as are conferred or imposed upon him by law or required of him
16 by the Governor.

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

19 1. Monitor trends and advances in information technology; direct and approve a comprehensive, statewide, four-
20 year planning process; and plan for the acquisition, management, and use of information technology. The statewide plan
21 shall be updated annually and submitted to the Governor, the Speaker of the House of Delegates, and the President Pro
22 Tempore of the Senate. In developing and updating such plans, the CIO shall consider, at a minimum, the advice and
23 recommendations of the Council on Technology Services created in ~~§ 2.1-51.48~~ pursuant to § 2.2-2651.

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

29 3. Direct the formulation and promulgation of policies, standards, specifications, and guidelines for information
30 technology in the Commonwealth, including, but not limited to, those (i) required to support state and local government
31 exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies and
(ii) concerning the development of electronic transactions including the use of electronic signatures as provided in § 59.1-518.

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

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

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

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

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

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

10. ~~Oversee and administer the Virginia Technology Infrastructure Fund created in § 9-145.62 pursuant to § 1702.~~

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

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

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

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

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-51.50~~ 2-2-227. CIO advisory committees.

The CIO may form such advisory committees as he deems necessary, convenient, or desirable to advise and assist him in exercising the powers and performing the duties conferred by this chapter. The disclosure requirements of subsection B of § ~~2-1-630.43~~ 2-2-3114 of the State and Local Government Conflict of Interests Act shall apply to members of the advisory committees. Members of advisory committees shall be compensated for the performance of their duties subject to the provisions of § ~~2-1-20.3~~ 2-2-2813.

DRAFTING NOTE: Technical corrections only.

Article 10.

Secretary of Transportation.

~~§ 2-1-51.44~~ 2-2-228. Position established; ~~appointment; term; oath~~ agencies for which responsible.

The position of Secretary of Transportation (the "Secretary") is ~~herby~~ created. ~~The Secretary shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. The Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor is appointed and qualified. Before entering upon the discharge of duties, the Secretary shall take an oath to faithfully execute the duties of the office. The Secretary shall be responsible to the Governor for the following agencies: Department of Transportation, Department of Rail and Public Transportation, Department of Aviation, Department of Motor Vehicles, the Virginia Port Authority, and the Motor Vehicle Dealer Board. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.~~

DRAFTING NOTE: Technical corrections only. The stricken language has been consolidated with other like provisions into proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor’s Secretaries; in Article 1, general provisions. The new language comes from existing § 2.1-51.43. On the recommendation of the Secretary of Transportation, the Virginia Port Authority and the Motor Vehicle Dealer Board were included as agencies under the Secretary of Transportation.

~~§ 2-1-51.42~~. Subject to supervision by Governor; powers and duties.

~~A. The Secretary of Transportation shall be subject to direction and supervision by the Governor. The agencies assigned to the Secretary shall:~~

- ~~1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;~~
- ~~2. Provide such assistance to the Governor or the Secretary as may be required; and~~
- ~~3. Forward all reports to the Governor through the Secretary.~~

~~B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:~~

- ~~1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;~~
- ~~2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.1- encompassing the services of agencies assigned for consideration by the Governor;~~

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

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

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

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

8 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
9 proposed § 2.2-200, which is located at the beginning of Chapter 2—Governor’s Secretaries; in Article 1, general provisions.

10 ~~§ 2.1-51.43. Agencies for which Secretary of Transportation responsible.~~

11 ~~The Secretary shall be responsible to the Governor for the following agencies: Department of Transportation,~~
12 ~~Department of Rail and Public Transportation, Department of Aviation, and the Department of Motor Vehicles.~~

13 ~~The Governor, by executive order, may assign any state executive agency to the Secretary of Transportation, or~~
14 ~~reassign any agency listed in this section to another Secretary.~~

15 **DRAFTING NOTE:** Technical corrections only. The stricken language has been moved to proposed § 2.2-228 as the new
16 language in the first paragraph.

17 CHAPTER 3.
18 VIRGINIA LIASON OFFICE.

19 ~~§ 2.1-564 2.2-300.~~ Office created; appointment of Director.

20 There is hereby created in the Office of the Governor, the Virginia Liaison Office, ~~hereinafter referred to in this~~
21 ~~chapter as (“the Office.”). The Office shall consist of a Director. The Director who shall be appointed by the Governor,~~
22 ~~subject to confirmation by the General Assembly as provided in § 2.1-41.2 2.2-106. Hereinafter in this chapter, such officer~~
23 ~~shall be referred to as “the Director.” The Director shall preferably, by reason of professional experience, be familiar with the~~
24 ~~structure and operations of the federal government and of the Commonwealth of Virginia.~~

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§ 2.1-565 2.2-301.~~ Duties of Director; staff; office location.

27 A. The Director shall be responsible for the general management of the Office and for the tasks assigned to it by law
28 or by the Governor.

29 B. The Director may hire staff, and accept offers of service from volunteers on a full- or part-time basis.

30 C. The Director may obtain, either in the City of Washington, D. C., or at some location within the Commonwealth
31 within twenty-five miles of Washington, D. C., such office space as he deems necessary for carrying out the duties imposed
32 on him by this chapter.

33 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of existing § 2.1-565 as subsection A, and §
34 2.1-566 as subsections B and C.

35 ~~§ 2.1-566.~~ Office location; staff.

36 ~~The Director is hereby authorized to obtain, either in the City of Washington, D. C., or at some location within the~~
37 ~~Commonwealth within twenty five miles of Washington, D. C., such office space as he shall deem necessary for the carrying~~
38 ~~out of the duties imposed on him by this chapter. He shall also be authorized to hire staff, and to accept offers of service from~~
39 ~~volunteers on a full or part time basis.~~

40 **DRAFTING NOTE:** Technical corrections. This section has been merged with proposed § 2.2-301 as new subsections B and
41 C.

42 ~~§ 2.1-567 2.2-302.~~ Responsibilities of Office.

43 It shall be the responsibility of the Office, through its Director, generally, to serve as an institutional and
44 organizational link between the government of the Commonwealth of Virginia and those agencies, bureaus, departments,
45 offices, and entities of the United States government located in the City of Washington, D. C., and its immediate environs.
46 The responsibilities of the Office shall include, but not necessarily be limited to:

- 47 1. Monitoring and tracking the development of federal legislation which is of interest to the Commonwealth;
- 48 2. Conducting in-depth analyses of federal legislation and regulations as to their impact upon the Commonwealth;
- 49 3. Providing state agencies with up-to-date information on the status of federal legislation and regulations;
- 50 4. Influencing the development of federal legislation by keeping the State Congressional Delegation informed about
51 the Governor’s priorities;

- 1 5. Alerting state agencies and local governments to early opportunities for federal grants;
- 2 6. Joining in cooperative efforts with other states, through their Washington offices, on issues of mutual concern;
- 3 7. Maintaining personal contacts with Congressional staffs, key federal agency officials, public interest groups, etc.;
- 4 8. Writing, or advising upon, testimony to be presented by the Governor or state agency heads before Congressional
- 5 committees;
- 6 9. Assisting state agency officials in resolving administrative problems which occur between the state and federal
- 7 agencies;
- 8 10. Monitoring and tracking the status of federal grant applications submitted by state agencies;
- 9 11. Assisting state agencies in obtaining needed information from the federal government;
- 10 12. Serving as a base office for state officials traveling to Washington;
- 11 13. Arranging meetings between federal and state officials;
- 12 14. Serving as an information source about the Commonwealth when called upon by another state's Congressional
- 13 delegate's staff;
- 14 15. Preparing analyses of legislation and initiatives which originate with the federal government, other states and
- 15 interstate groups, including preparing statements of their potential impact on the Commonwealth, and coordinating state
- 16 positions on such legislation and initiatives;
- 17 16. Maintaining liaison with other states and interstate groups;
- 18 17. Supporting state agencies in monitoring and influencing the development of federal rules and regulations of
- 19 interest to the Commonwealth; and
- 20 18. Reporting twice yearly to the members of the Senate Committee on Finance Committee, the House Committee
- 21 on Appropriations Committee, and the Governor all federal mandates and regulations ~~which that~~ may have an effect on the
- 22 Commonwealth. These reports shall be presented by January 15 and July 15 of each year. ~~Such reports and~~ shall contain the
- 23 names of those Virginia congressional members who voted for the legislation resulting in ~~such the~~ mandates.

24 **DRAFTING NOTE:** Technical corrections only.

25 ~~§ 2-1-568 2.2-303.~~ Cooperation with Department of Planning and Budget; supplemental assistance.

26 ~~In addition to the foregoing, the~~ The Office shall be charged with the coordination of its work with that of the Virginia

27 Department of Planning and Budget. The Department of Planning and Budget shall provide the Office with such support,

28 beyond that provided for in ~~§ 2-1-565 2.2-301~~, as may prove necessary.

29 **DRAFTING NOTE:** Technical corrections only.

30 CHAPTER 4.

31 SECRETARY OF THE COMMONWEALTH.

32 Article 1.

33 General Provisions.

34 ~~§ 2-1-65 2.2-400.~~ Appointment and term of office; filling vacancies; oath.

35 A. The Governor, shall appoint, subject to confirmation by the General Assembly, ~~shall appoint~~ a Secretary of the

36 Commonwealth for a term commencing on the Monday after the third Wednesday in January after his inauguration. The

37 appointment shall be for a term of four years. Vacancies shall be filled by appointment by the Governor for the unexpired term

38 and shall be effective until thirty days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for

39 the remainder of the term.

40 B. The Secretary of the Commonwealth, before he acts as such, shall, in addition to the other oaths prescribed by

41 law, take an oath to keep secret such matters as he may be required by the Governor to conceal.

42 **DRAFTING NOTE:** Technical corrections only.

43 ~~§ 2-1-66 2.2-401.~~ Ex officio Secretary to Governor; in charge of division of records.

44 The Secretary of the Commonwealth, who shall be ex officio Secretary to the Governor, shall be in direct charge of

45 the division of records.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 2-1-67. Oath of Secretary.~~

48 ~~The Secretary of the Commonwealth, before he acts as such, shall, in addition to the other oaths prescribed by law,~~

49 ~~take an oath to keep secret such matters as he may be required by the Governor to conceal.~~

50 **DRAFTING NOTE:** This section has been merged with proposed § 2.2-400 as new subsection B.

~~§ 2-1-68.2.2-402.~~ Keeper of seals of Commonwealth; duties generally.

2 The Secretary of the Commonwealth shall (i) be keeper of the seals of the Commonwealth; (ii) keep a record of all
3 executive acts, arrange and preserve all records and papers belonging to the executive ~~department~~ branch of state
4 government; (iii) be charged with the clerical duties of that department; and (iv) render to the Governor, in the dispatch of
5 executive business, such services as he requires. The Secretary of the Commonwealth shall record or register all papers or
6 documents required by law to be registered or recorded in his office, and, when required, furnish a copy of any record in his
7 office under the seal of the Commonwealth.

8 The Secretary of the Commonwealth ~~is authorized to may~~ authenticate records of any court of the Commonwealth
9 and of any department of the government. He shall keep a register of all city, incorporated town, county, and district officers,
10 and, when required, give a certificate of the election and qualification of any such officer.

11 The Secretary of the Commonwealth shall make an annual report to the Governor, ~~embracing~~ identifying the
12 following: (i) the boards of visitors of all public institutions, and other boards appointed by the Governor; (ii) all commissions
13 issued under appointments made by the Governor, except commissions to notaries public; ~~and (iii) all departments, boards,~~
14 councils, commissions, and other collegial bodies created in the executive branch of state government; and (d) such other
15 matters as the Governor requires. The reports shall be transmitted by the Governor to the General Assembly, printed as other
16 such annual reports are printed, bound in a separate volume, and disposed of according to law.

17 The Secretary of the Commonwealth shall collect all fees ~~mentioned described~~ in ~~§ 2-1-71.2.2.2-409,~~ and all other
18 fees of office and commissions, accruing and pay them into the state treasury.

19 The Secretary of the Commonwealth shall include information and photographs of the members of the General
20 Assembly in such annual report; these materials shall be maintained for the Secretary's use in the annual report by the Clerks
21 of the House of Delegates and the Senate.

22 **DRAFTING NOTE:** The second sentence in third paragraph of this section was added to give the Secretary of the
23 Commonwealth the duty to maintain a list of all executive branch departments, state boards, councils, commissions, and
24 other collegial bodies since the proposed title revision will no longer contain the lists currently found in Titles 2.1 and 9 (i.e.,
25 state departments, § 2.1-1.1; state councils, § 2.1-1.7; state commissions, § 2.1-1.9; state advisory, policy and supervisory
26 boards, §§ 9-6.25:1, 9-6.25:2 and 9-6.25:3, respectively.) Otherwise, this section contains technical corrections.

27 ~~§ 2-1-68.4.2.2-403.~~ Compilation of compacts; and related records and reports ~~relating thereto.~~

28 The Secretary of the Commonwealth shall prepare and maintain a compilation of all of the compacts to which the
29 Commonwealth of Virginia is now or has been a party, commencing with the compact entered into with the state of North
30 Carolina ~~which that~~ is referenced in chapter XXIX of the October Session of the 1778 Acts of the General Assembly. ~~Such~~
31 The compilation shall contain the dates on which ~~such the~~ compacts were confirmed by ~~this the~~ Commonwealth and the
32 complete texts of the terms of ~~each the~~ compacts.

33 The Secretary of the Commonwealth shall also maintain all records relating to the appointment of persons in
34 accordance with compacts confirmed by the Commonwealth.

35 The Secretary of the Commonwealth shall report to the Governor and the Virginia Commission on Interstate
36 Cooperation within fifteen days after the convening of each legislative session, and at such other times as deemed
37 appropriate, on appointments and vacancies to the interstate boards, commissions and committees established for the
38 purposes of such compacts.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§ 2-1-69.2.2-404.~~ Certifying records for use in other states.

41 Whenever any record of any court in ~~this the~~ Commonwealth or of any department of the government is to be used
42 in another state in the United States, the Secretary of the Commonwealth ~~is authorized and directed to shall~~ authenticate the
43 same in the manner and give the certificates required by the laws of the state when such record is to be used, as far as
44 practicable.

45 **DRAFTING NOTE:** Technical corrections only.

46 ~~§ 2-1-42.2.2.2-405.~~ Secretary of Commonwealth to present list of vacancies to arise on commissions, boards, etc.

47 The Secretary of the Commonwealth shall ~~cause to be prepared~~ prepare by the fifteenth of January in each year a
48 list of all vacancies ~~which that~~ are scheduled to arise during that year on all boards, commissions, councils or other collegial
49 bodies appointed by the Governor. The list shall be presented to the Governor and the General Assembly as soon as
50 practicable following its preparation, and the Secretary of the Commonwealth shall make copies ~~thereof of the list~~ available to
51 the public at cost.

52 **DRAFTING NOTE:** Technical corrections only.

53 ~~§ 2-1-42.3.2.2-406. (Effective January 1, 1998)~~ Secretary of Commonwealth to report list of interim appointments
54 requiring confirmation; other appointments.

1 A. The Secretary of the Commonwealth shall periodically, during the interim between sessions of the General
2 Assembly, present to the ~~Chairman~~ chairmen of the Senate ~~Committee and House Committees~~ on Privileges and El
3 ~~and the Chairman of the House Committee on Nominations and Confirmations~~ a list of the names of all persons appoi. y
4 the Governor that require confirmation by the General Assembly. A list shall be presented by June 1, August 1, October 1,
5 and December 1, and shall include the names of all persons so appointed since adjournment or since the last required report,
6 the position to which appointed, and the person whom the appointee will succeed.

7 B. The Secretary of the Commonwealth shall report to the General Assembly by December 1 of each year, the
8 number of persons appointed to any state board, commission, agency or authority, categorized by race, gender and national
9 origin. Information on the race, gender and national origin of appointees shall be obtained through voluntary self-identification
10 following appointment. Such information shall be used solely for the purpose of compiling the statistical information required
11 under this section and any personally identifiable information collected under this section shall be confidential and shall be
12 exempt from disclosure under the Freedom of Information Act (§ 2-1-340- 2.2-3700 et seq.).

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2-1-71. Filing of information by certain political subdivisions; inspection and publication of such information.~~

15 ~~Each county, city, and town, and each authority, commission, district, or other political subdivision of the~~
16 ~~Commonwealth to which any money is appropriated by the Commonwealth or any county, city or town or which levies any~~
17 ~~taxes or collects any fees or charges for the performance of public services or issues bonds, notes, or other obligations under~~
18 ~~authority of any statute or expends public moneys derived from any revenue producing activity or derived from the~~
19 ~~Commonwealth shall annually on or before June 30 file with the Secretary of the Commonwealth, on forms prescribed by him,~~
20 ~~a list of all bonds, notes, or other obligations issued by such county, city, town, authority, commission, district, or other~~
21 ~~political subdivision of the Commonwealth, the date and amount thereof, the balance outstanding thereon, and the type of~~
22 ~~project or projects financed thereby which shall be kept available for public inspection but need not be published.~~

23 **DRAFTING NOTE:** This section has been deleted on recommendation of Secretary of Finance and the Auditor of Public
24 Accounts because it is obsolete and the same information is available in the audited financial statement of the issuing entity.
25 This recommendation was made after the assignment of new code section numbers for the proposed Title 2.2. As a result,
26 proposed § 2.2-407 has been reserved to avoid renumbering the entire 2.1 title revision.

27 § 2.2-407. Reserved.

28 ~~§ 2-1-71.4 2.2-408. Collection of information relevant to boundary changes from governmental subdivis' of~~
29 Commonwealth.

30 The Secretary of the Commonwealth shall be responsible for the collection from the governmental subdivisions of
31 the Commonwealth of information relevant to their boundary changes and the dissemination of such information to the
32 appropriate departments of state government.

33 **DRAFTING NOTE:** Technical corrections only.

34 ~~§ 2-1-71.2 2.2-409. (Effective October 1, 1998) Secretary of the Commonwealth.~~

35 The Secretary of the Commonwealth shall charge the following fees for services rendered in his office ~~the following~~
36 ~~fees~~, to be paid by the person for whom the service is rendered at the time it is done:

37
38
39

40	For a testimonial, including seal tax	\$10.00
41	For a copy of any paper, if on one sheet	1.00
42	And for each sheet after the first .....	.75
43	For issuing a commission to a commissioner in another state	7.00
44	For power of attorney for nonresident insurers, contractors	3.00
45	For service of process on parties, each defendant	19.00
46	For service of process on reciprocal insurers	7.00
47	For registration of name, badge and insignia	7.50
48	For affixing the Seal of the Commonwealth	2.00
49	For issuing a commission to a notary for the Commonwealth at large,	
50	including seal tax	25.00

51

52 And for filing in his office any paper required by law to be filed, the same fee as is allowed by law for recording
53 similar papers.

54 **DRAFTING NOTE:** Technical corrections only.

55 ~~§ 2-1-72 2.2-410. Appointment of clerks; chief clerk; assistants; deputy to act in absence of Secretary; r~~
56 Governor.

1 A. The Secretary of the Commonwealth shall appoint in his office the ~~clerk-assistants~~ allowed by law.

2 B. During the absence of the Secretary of the Commonwealth from his office his duties shall be performed by the
3 Deputy Secretary, but when such absence is for more than five days at a time, notice thereof shall be given to the Governor.

4 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of existing § 2.1-72 as subsection A and
5 existing § 2.1-73 as subsection B. The terms "clerk" and "chief clerk" have been updated to assistants and Deputy Secretary,
6 respectively.

7 ~~§ 2.1-73. Chief clerk to act in absence of Secretary; notice to Governor.~~

8 ~~During the necessary absence of the Secretary of the Commonwealth from his office his duties shall be performed~~
9 ~~by his chief clerk, but when such absence is for more than five days at a time, notice thereof shall be given to the Governor.~~

10 **DRAFTING NOTE:** This section has been merged with proposed § 2.2-410 as new subsection B.

11 Article 2.

12 Registration of Names or Insignia of Certain Organizations.

13 ~~§ 2.1-74~~ 2.2-411. Registration of names or insignia of certain societies, organizations or associations; alteration or
14 cancellation of name.

15 Any association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or
16 association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society,
17 organization or association, degree, branch, subordinate lodge, or auxiliary thereof, whether incorporated or unincorporated,
18 the principles and activities of which are not repugnant to the Constitution and laws of the United States or ~~this~~ the
19 Commonwealth, may register, in the office of the Secretary of the Commonwealth, a facsimile, duplicate, or description of its
20 name, badge, motto, button, declaration, charm, emblem, rosette or other insignia, and may, by reregistration, alter or cancel
21 the name.

22 **DRAFTING NOTE:** Technical corrections only.

23 ~~§ 2.1-75~~ 2.2-412. Application for such registration, alteration or cancellation.

24 Application for ~~such~~ registration, alteration, or cancellation; under this article shall be made by the chief officer ~~of~~
25 ~~officers of each~~ the association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or
26 association, historical, military, or veterans' organization, labor union, foundation, federation, or other society, organization, or
27 association, degree, branch, subordinate lodge, or auxiliary thereof, upon blanks to be provided by the Secretary of the
28 Commonwealth.

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§ 2.1-76~~ 2.2-413. Registration for benefit of associated branches, etc.

31 ~~Such registration~~ Registration shall be for the use, benefit, and on behalf of all associations, degrees, branches,
32 subordinate lodges, and auxiliaries of such associations, lodge, order, fraternal society, beneficial association, or fraternal
33 and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or other
34 society, organization, or association, degree, branch, subordinate lodge, or auxiliary thereof, and the individual members ~~and~~
35 ~~these hereafter to become members thereof~~ of such organizations, throughout ~~this~~ the Commonwealth.

36 **DRAFTING NOTE:** Technical corrections only.

37 ~~§ 2.1-77~~ 2.2-414. Record of registration; certification of registration; fees.

38 A. The Secretary of the Commonwealth shall keep a properly indexed record of the registration provided for by § 2.2-
39 411, which record shall also show any altered or canceled registration.

40 B. Upon granting registration provided in § 2.2-411, the Secretary of the Commonwealth shall issue his certificate to
41 the petitioners, setting forth the fact of such registration.

42 C. The fees of the Secretary of the Commonwealth for registration, alteration, cancellation, searches, and certificates
43 issued pursuant to this article shall be the same as provided by law for similar services.

44 **DRAFTING NOTE:** Technical corrections. The proposed section is comprised of the following existing sections: subsection A
45 is § 2.1-77, subsection B is § 2.1-79, and subsection C is § 2.1-81.

46 ~~§ 2.1-78~~ 2.2-415. Names or insignia not to be imitative.

47 No registration shall be granted or alteration permitted to any association, lodge, order, fraternal society, beneficial
48 association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union,
49 foundation, federation, or other society, organization, or association, degree, branch, subordinate lodge, or auxiliary thereof,
50 having a name, badge, motto, button, decoration, charm, emblem, rosette, or other insignia, similar to, imitating, or so nearly

1 resembling as to be calculated to deceive, any other name, badge, button, decoration, charm, emblem, rosette, or other
2 insignia whatsoever, already registered pursuant to the provisions of ~~§ 2-1-742, 2-411.~~

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 2-1-70. Certificate of registration.~~

5 ~~Upon granting registration as aforesaid, the Secretary of the Commonwealth shall issue his certificate to the~~
6 ~~petitioners, setting forth the fact of such registration.~~

7 **DRAFTING NOTE:** Technical corrections. This section has been merged with proposed § 2.2-414 as new subsection B.

8 ~~§ 2-1-81. Fees.~~

9 ~~The fees of the Secretary of the Commonwealth for registration, alteration, cancellation, searches made by him, and~~
10 ~~certificates issued by him, pursuant to this article, shall be the same as provided by law for similar services.~~

11 **DRAFTING NOTE:** Technical corrections. This section has been merged with proposed § 2.2-414 as new subsection C.

12 ~~§ 2-1-81.4 2.2-416. Registration of mottoes or slogans of state departments, etc; exemptions.~~

13 Any state department, division, board, commission, agency or facility owned and operated by the Commonwealth,
14 which develops or creates, or commissions the development or creation of a motto or slogan for its use pursuant to or in
15 furtherance of the programs or business of the department, division, agency or facility, shall without delay register the motto
16 or slogan with the Secretary of the Commonwealth, who shall maintain a record of such registration to be open to public
17 inspection during normal office hours; ~~provided, however that state.~~

18 However, public institutions of higher learning education in Virginia and units of the Virginia National Guard shall be
19 exempt from the requirements of this section.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 2-1-81.2 2.2-417. Use of registered motto or slogan or recognizable variation thereof; penalty for violation.~~

22 A. Upon registration of a motto or slogan as provided in § ~~2-1-81.2 2.2-416~~, no individual, partnership, association or
23 corporation shall employ such motto or slogan or a recognizable variation thereof on any article offered for sale to the public
24 at a price above the actual cost of production of the article without the express consent of the registrant, which, if it approved
25 of such use, may require payment of a reasonable fee or royalty for the use of its motto or slogan and, in addition, may
26 impose restrictions upon such use.

27 B. No individual, partnership, association or corporation shall otherwise publicly use a recognizable variation of a
28 registered motto or slogan for any purpose without the express consent of the registrant. Such consent may in any event be
29 revoked by the registrant upon thirty days' written notice to the licensee. All fees or royalties collected pursuant to this section
30 shall be paid into the general fund of the state treasury.

31 Public use of a registered motto or slogan or a recognizable variation of a registered motto or slogan for any purpose
32 without the express consent of the registrant or the continued use of a registered motto or slogan or recognizable variation
33 thereof following withdrawal of consent to such use by the registrant shall be punishable by a fine of no more than \$1,000.
34 Each day of violation shall constitute a separate offense.

35 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of existing § 2.1-81.2 as subsections A and
36 first paragraph of subsection B, and existing § 2.1-81.3 as the second paragraph of subsection B.

37 ~~§ 2-1-81.3. Penalty for violation of § 2-1-81.2.~~

38 ~~Violation of § 2-1-81.2 shall be a misdemeanor punishable by a fine of no more than \$1,000 as shall be the~~
39 ~~continued use of a registered motto or slogan or a recognizable variation thereof pursuant to § 2-1-81.2 following withdrawal~~
40 ~~of consent to such use by the registrant, and in either event, each day of such use shall be a separate offense.~~

41 **DRAFTING NOTE:** This section has been merged with proposed § 2.2-217 as second paragraph of new subsection B.

42 ~~§ 2-1-81.4. Registration of slogan "Virginia Is for Lovers."~~

43 ~~The slogan "Virginia Is for Lovers" shall be registered with the Secretary of the Commonwealth as the slogan of the~~
44 ~~Virginia Division of Tourism within five days of April 5, 1972.~~

45 **DRAFTING NOTE:** Technical corrections. This section has been deleted as obsolete since the slogan "Virginia is for
46 Lovers" has, in fact, been registered with the Secretary of the Commonwealth and continues to be registered as of this
47 writing.

48 Article 3.

49 Registration of Lobbyists.

50 ~~§ 2-1-779 2.2-418. Statement of intent and purposes.~~

The General Assembly finds and declares the following:

1. The operation of open and responsible government requires the fullest opportunity to be afforded to the people to petition their government for the redress of grievances and to express freely their opinions on legislative and executive actions.

2. The identity and expenditures of certain persons who attempt to influence legislative and executive actions with respect to legislation and executive orders should be publicly identified to preserve and maintain the integrity of government.

DRAFTING NOTE: This article is the existing Chapter 49 (§ 2.1-779 et seq.), which has been moved as an article under the chapter dealing with the Secretary of the Commonwealth because the Secretary is responsible for the registration of lobbyists.

~~§ 2.1-780~~ 2.2-419. Definitions.

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

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
4. A stock, bond, note, or other investment interest in an entity;
5. A receipt given for the payment of money or other property;
6. A right in action;
7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
8. A loan or forgiveness of indebtedness;
9. A work of art, antique, or collectible;
10. An automobile or other means of personal transportation;
11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
12. An honorarium or compensation for services;
13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
14. A promise or offer of employment; or
15. Any other thing of value that is pecuniary or compensatory in value to a person.

"Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9 (§ 24.2-900 et seq.) of Title 24.2.

"Compensation" means:

1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or
2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.

"Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

"Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor.

"Executive agency" means an agency, board, commission, or other body in the executive branch of state government. "Executive agency" includes the State Corporation Commission, the Virginia Department of Workers' Compensation, and the State Lottery Department.

"Executive official" means:

1. The Governor;
2. The Lieutenant Governor;
3. The Attorney General;
4. Any officer or employee of the office of the Governor or Lieutenant Governor other than a clerical or secretarial employee;

1 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each executive agency; or
2 6. Members of supervisory and policy boards, commissions and councils, as defined in ~~§ 9-6-25~~ 2.2-2100, howe
3 selected.

4 "Expenditure" means:

- 5 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance,
6 deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose;
- 7 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person employing,
8 retaining, or contracting for the services of the lobbyist separately or jointly with other persons;
- 9 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of
10 expenses incurred at the request or suggestion of the lobbyist;
- 11 4. A payment that directly benefits an executive or legislative official or a member of the official's immediate family;
- 12 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses of an
13 employee for or in connection with direct communication with an executive or legislative official;
- 14 6. A payment for or in connection with soliciting or urging other persons to enter into direct communication with an
15 executive or legislative official; or
- 16 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to this chapter.

17 "Expenditure" does not mean a campaign contribution properly received and reported pursuant to Chapter 9 (§ 24.2-
18 900 et seq.) of Title 24.2.

19 "Gift" means anything of value to the extent that a consideration of equal or greater value is not received.

20 "Gift" does not mean:

- 21 1. Printed informational or promotional material;
- 22 2. A gift that is not used and, no later than sixty days after receipt, is returned to the donor or delivered to a
23 charitable organization and is not claimed as a charitable contribution for federal income tax purposes;
- 24 3. A gift, devise, or inheritance from an individual's spouse, child, parent, grandparent, brother, sister, parent-in-law,
25 brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of that individual, if the donor is not
26 acting as the agent or intermediary for someone other than a person covered by this subdivision; or
- 27 4. A gift of a value of twenty-five dollars or less.

28 "Immediate family" means (i) the spouse and (ii) any other person who resides in the same household as a
29 executive or legislative official and is the dependent of the official.

30 "Legislative action" means:

- 31 1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage,
32 enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination,
33 appointment, or other matter by the General Assembly or a legislative official;
- 34 2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by the General
35 Assembly; or
- 36 3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments
37 recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.

38 "Legislative official" means:

- 39 1. A member or member-elect of the General Assembly;
- 40 2. A member of a committee, subcommittee, commission or other entity established by and responsible to the
41 General Assembly or either house of the General Assembly; or
- 42 3. Persons employed by the General Assembly or an entity established by and responsible to the General Assembly.

43 "Lobbying" means:

- 44 1. Influencing or attempting to influence executive or legislative action through oral or written communication with an
45 executive or legislative official; or
- 46 2. Solicitation of others to influence an executive or legislative official.

47 "Lobbying" does not mean:

- 48 1. Requests for appointments, information on the status of pending executive and legislative actions, or other
49 ministerial contacts if there is no attempt to influence executive or legislative actions;
- 50 2. Responses to published notices soliciting public comment submitted to the public official designated in the notice
51 to receive the responses;
- 52 3. The solicitation of an association by its members to influence legislative or executive action; or
- 53 4. Communications between an association and its members and communications between a principal and
54 lobbyists.

1 "Lobbyist" means:

- 2 1. An individual who is employed and receives payments, or who contracts for economic consideration, including
3 reimbursement for reasonable travel and living expenses, for the purpose of lobbying;
- 4 2. An individual who represents an organization, association, or other group for the purpose of lobbying; or
- 5 3. A local government employee who lobbies.

6 "Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence
7 executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal
8 and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying
9 activities on behalf of its membership, the principal is the coalition or association and not its individual members.

10 "Local government" means:

- 11 1. Any county, city, town, or other local or regional political subdivision;
- 12 2. Any school division;
- 13 3. Any organization or entity ~~which that~~ exercises governmental powers ~~which that~~ is established pursuant to an
14 interstate compact; or
- 15 4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of this definition.

16 "Local government employee" means a public employee of a local government.

17 "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate,
18 business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in
19 concert.

20 "Value" means the retail cost or fair market worth of an item or items, whichever is greater.

21 **DRAFTING NOTE:** Technical corrections only.

22 ~~§ 2-1-784~~ 2.2-420. Exemptions.

23 The registration and reporting provisions of this ~~chapter~~ ~~article~~ shall not apply to:

- 24 1. The Governor, Lieutenant Governor, Attorney General, and their immediate staffs or the Governor's Secretaries
25 and their immediate staffs, acting in an official capacity;
- 26 2. Members of the General Assembly and other legislative officials and legislative employees acting in an official
27 capacity;
- 28 3. Local elected officials acting in an official capacity;
- 29 4. Any employee of a state executive agency acting in an official capacity;
- 30 5. A duly elected or appointed official or employee of the United States acting in an official capacity;
- 31 6. An individual who limits lobbying solely to (i) formal testimony before a public meeting of an executive agency or
32 legislative body and registers the appearance in the records of the agency or body and (ii) testimony and information
33 compelled by action of an executive agency or legislative body;
- 34 7. A person who receives \$500 or less in compensation and reimbursements, excluding personal living and travel
35 expenses, in a calendar year for his lobbying activities;
- 36 8. A person who receives no compensation or anything of value for lobbying, and does not expend more than \$500,
37 excluding personal living and travel expenses, in lobbying in the calendar year; or
- 38 9. An employee of a business, other entity, or local government whose job duties do not regularly include influencing
39 or attempting to influence legislative or executive action.

40 **DRAFTING NOTE:** Technical corrections only.

41 ~~§ 2-1-784.1~~ 2.2-421. Reporting requirements for certain state agencies.

42 A. The chief administrative officer of each board, department, institution, or agency of the Commonwealth shall file a
43 registration statement with the Secretary of the Commonwealth on behalf of the officers and employees who will be engaged
44 in lobbying as defined in ~~§ 2-1-780~~ 2.2-419 and shall comply with the provisions of this ~~chapter~~ ~~article~~ that require lobbyists to
45 register with the Secretary of the Commonwealth. No fee shall be collected for registrations required by this section.

46 B. Any state governmental body required to file a registration under this section shall comply with the provisions of
47 this ~~chapter~~ ~~article~~ relating to registration.

48 C. The registration requirements of this section shall not apply to:

- 49 1. The Governor, Lieutenant Governor, Attorney General and their immediate staffs, or the Governor's Secretaries
50 and their deputies and immediate staffs, acting in an official capacity;
- 51 2. Members of the General Assembly and other legislative officials and legislative employees acting in an official
52 capacity;
- 53 3. The chief administrative officer of each department or division in the executive branch of state government;

- 1 4. The chief administrative officer of each division of the State Corporation Commission; or
2 5. Any state government employee acting in an official capacity.

3 **DRAFTING NOTE:** Technical corrections only.

4 | § 2-1-782 2.2-422. Registration requirements.

5 A. A lobbyist shall register with the Secretary of the Commonwealth prior to engaging in lobbying. A lobbyist who
6 engages in lobbying entirely outside the capital city shall comply with this section by registering with the Secretary within
7 fifteen days after first engaging in lobbying. Registration shall be required annually and expire May 1 of each year.

8 B. The chief administrative officer of each local government shall register with the Secretary of the Commonwealth
9 and file a statement pursuant to § 2-1-783 2.2-423 if any local government employees will act as lobbyists on its behalf. No
10 registration fee shall be required. Each local government shall file a consolidated report in accordance with the reporting
11 requirements of § 2-1-786 2.2-426 and shall maintain locally a copy of the report ~~which~~ that is available for inspection and
12 copying during regular business hours.

13 **DRAFTING NOTE:** Technical corrections only.

14 | § 2-1-783 2.2-423. Contents of registration statement.

15 A. The registration statement shall be on a form provided by the Secretary of the Commonwealth and include the
16 following information:

- 17 1. The name and business address and telephone number of the lobbyist;
18 2. The name and business address and telephone number of the person who will keep custody of the lobbyist's and
19 the lobbyist's principal's accounts and records required to comply with this ~~chapter~~ article, and the location and telephone
20 number for the place where the accounts and records are kept;
21 3. The name and business address and telephone number of the lobbyist's principal;
22 4. The kind of business of the lobbyist's principal;
23 5. For each principal, the full name of the individual to whom the lobbyist reports;
24 6. For each principal, a statement whether the lobbyist is employed or retained and whether exclusively for the
25 purpose of lobbying;
26 7. The position held by the lobbyist if he is a part-time or full-time employee of the principal;
27 8. The full name and business address and telephone number of each lobbyist employed by or representing the
28 lobbyist's principal;
29 9. An identification of the subject matter (with as much specificity as possible) with regard to which the lobbyist or
30 lobbyist's principal will engage in lobbying; and
31 10. The signed statement by the lobbyist that the information contained on the registration statement is true and
32 correct.

33 B. Whenever any change, modification or addition to his status as a lobbyist is made, the lobbyist shall, within one
34 week of such change, modification or addition, furnish full information regarding the same to the Secretary of the
35 Commonwealth on forms provided by the Secretary.

36 C. The Secretary of the Commonwealth shall furnish a copy of this ~~chapter~~ article to any individual offering to
37 register as a lobbyist and shall mail by certified mail a copy of this ~~chapter~~ article and a copy of the information furnished by
38 the lobbyist to the person whom the lobbyist represents to be his principal.

39 D. If the principal to whom the information is sent under subsection C of this ~~section~~ does not, within ten days of
40 such mailing, file an affidavit, signed by the person or duly authorized agent of the person, denying that the lobbyist appears
41 on his behalf, such person shall be deemed to have appointed the Secretary of the Commonwealth his agent for service of
42 process in any prosecution arising for violation of this ~~chapter~~ article. If such affidavit is filed, the Secretary shall notify the
43 attorney for the Commonwealth of the City of Richmond.

44 **DRAFTING NOTE:** Technical corrections only.

45 | § 2-1-784 2.2-424. Registration fees.

46 The Secretary shall collect an annual registration fee of fifty dollars from the lobbyist for each principal for whom, or
47 on whose behalf, the lobbyist will act.

48 **DRAFTING NOTE:** Technical corrections only.

49 | § 2-1-785 2.2-425. Registration information to be recorded in legislative docket; list of executive officials.

50 A. The Secretary of the Commonwealth shall maintain in a legislative docket the information filed under § 2-1-
51 783 2.2-423 pertaining to lobbying involving legislative actions during any session of the General Assembly. The Secretary

shall furnish current, complete lists thereof to the clerk of each house and to each member of the General Assembly once every two weeks during the session of the General Assembly beginning with the convening of the General Assembly.

B. The Secretary of the Commonwealth shall prepare a list of executive officials, their positions and names, to be revised at least semi-annually and made available to lobbyists to assist them in complying with the provisions of this chapter article.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-786~~ 2.2-426. Lobbyist reporting.

A. Each lobbyist shall file a separate annual report of expenditures, including gifts, for each principal for whom he lobbies by July 1 for the preceding twelve-month period ending May 1.

B. Each principal who expends more than \$500 to employ or compensate multiple lobbyists shall be responsible for filing a consolidated lobbyist report pursuant to this section in any case in which the lobbyists are each exempt under the provisions of subdivision 7 or 8 of ~~§ 2-1-784~~ 2.2-420 from the reporting requirements of this section.

C. The report shall be on a form provided by the Secretary of the Commonwealth, which shall be substantially as follows and shall be accompanied by instructions provided by the Secretary.

LOBBYIST'S DISCLOSURE STATEMENT

PART I:

(1) PRINCIPAL:

In Part I, item 2a, provide the name of the individual authorizing your employment as a lobbyist. The lobbyist filing this statement MAY NOT list his name in item 2a. THE INDIVIDUAL LISTED IN PART I, ITEM 2A, MUST SIGN THE PRINCIPAL'S STATEMENT.

(2a) Name:

(2b) Permanent Business Address:

(2c) Business Telephone:

(3) Provide a list of executive and legislative actions (with as much specificity as possible) for which you lobbied and a description of activities conducted.

(4) INCORPORATED FILINGS: If you are filing an incorporated disclosure statement, please complete the following:

Individual filing financial information:

Individuals to be included in the filing:

(5) Please indicate which schedules will be attached to your disclosure statement:

Schedule A: Entertainment Expenses

Schedule B: Gifts

Schedule C: Other Expenses

(6) EXPENDITURE TOTALS:

a) ENTERTAINMENT.....\$.....

b) GIFTS.....\$.....

c) OFFICE EXPENSES.....\$.....

d) COMMUNICATIONS.....\$.....

e) PERSONAL LIVING AND TRAVEL EXPENSES.....\$.....

f) COMPENSATION OF LOBBYISTS.....\$.....

g) HONORARIA.....\$.....

h) REGISTRATION COSTS.....\$.....

i) OTHER.....\$.....

TOTAL.....\$.....

PART II:

(1a) NAME OF LOBBYIST:

(1b) Permanent Business Address:

(1c) Business Telephone:

(2) As a lobbyist, you are (check one)

EMPLOYED (on the payroll of the principal)

RETAINED (not on the payroll of the principal, however compensated)

- 1 [] NOT COMPENSATED (not compensated; expenses may be
- 2 reimbursed)
- 3 (3) List all lobbyists other than yourself who registered to
- 4 represent your principal.
- 5
- 6
- 7
- 8 (4) If you selected "EMPLOYED" as your answer to Part II, item 2,
- 9 provide your job title.
- 10
- 11 (5) If you selected "NOT COMPENSATED" as your answer to Part II,
- 12 item 2, please indicate why you received no compensation.
- 13
- 14
- 15

16 PLEASE NOTE: Some lobbyists are not individually compensated for

17 lobbying activities. This may occur when several members of a firm

18 represent a single principal. The principal, in turn, makes a

19 single payment to the firm. If this describes your situation, do

20 not answer Part II, items 6a and 6b. Instead, complete Part III,

21 items 1 and 2.

22 (6a) What was the DOLLAR AMOUNT OF YOUR COMPENSATION as a lobbyist?

23 (If you have job responsibilities other than those involving

24 lobbying, you may have to prorate to determine the part

25 of your salary attributable to your lobbying activities.)

26 Transfer your answer to this item to Part I, item 6f.

27 (6b) Explain how you arrived at your answer to Part II, item 6a.

28

29

30

31 PART III:

32 PLEASE NOTE: If you answered Part II, items 6a and 6b, you WILL NOT

33 complete this section.

34 (1) List all members of your firm, organization, association,

35 corporation, or other entity who furnished lobbying services to

36 your principal.

37

38

39

40 (2) Indicate the total amount paid to your firm, organization,

41 association, corporation or other entity for services rendered.

42 Transfer your answer to this item to Part I, item 6f.....

43 SCHEDULE A

44 ENTERTAINMENT EXPENSES

45 PLEASE NOTE: Any single entertainment event included in the expense

46 totals of the principal, with a value greater than \$50, should be

47 itemized below. Transfer any totals from this schedule to Part I,

48 item 6a. (Please duplicate as needed.)

49 Date and Location of Event:

50

51

52 Description of Event:

53

54

55 Number of Legislative and Executive Officials Invited:

56

57 Number of Legislative and Executive Officials Attending:

58

59 Names of Legislative and Executive Officials Attending: (List names

60 only if the average value for each person attending the event was

61 greater than \$50.)

62

63

1	.....
2	Food.....	\$.....
3	Beverages.....	\$.....
4	Transportation of Legislative and Executive	
5	Officials.....	\$.....
6	Lodging of Legislative and Executive Officials.....	\$.....
7	Performers, Speakers, Etc.....	\$.....
8	Displays.....	\$.....
9	Rentals.....	\$.....
10	Service Personnel.....	\$.....
11	Miscellaneous.....	\$.....
12	TOTAL.....	\$.....

13 SCHEDULE B

14 GIFTS

15 PLEASE NOTE: Any single gift reported in the expense totals of the
 16 principal, with a value greater than \$25, should be itemized below.
 17 (Report meals, entertainment and travel under Schedule A.) Transfer
 18 any totals from this schedule to Part I, item 6b. (Please duplicate
 19 as needed.)

20	Date	Description	Name of each legislative or	Cost of
21	of gift:	of gift:	executive official who is a	individual
22			recipient of a gift:	gift:
23	\$.....
24	\$.....
25	\$.....
26	\$.....
27	\$.....
28	TOTAL COST TO PRINCIPAL.....			\$.....

29 SCHEDULE C

30 OTHER EXPENSES

31 PLEASE NOTE: This section is provided for any lobbying-related
 32 expenses not covered in Part I, items 6a - 6h. An example of an
 33 expenditure to be listed on Schedule C would be the rental of a bill
 34 box during the General Assembly session. Transfer the total from
 35 this schedule to Part I, item 6i. (Please duplicate as needed.)

36	DATE OF EXPENSE	DESCRIPTION OF EXPENSE	AMOUNT
37	\$.....
38	\$.....
39	\$.....
40	\$.....
41	\$.....
42	\$.....
43	\$.....
44	\$.....
45	\$.....
46	TOTAL "OTHER" EXPENSES.....		\$.....

47 PART IV: STATEMENTS

48 Both the lobbyist and principal officer must sign the disclosure
 49 statement, attesting to its completeness and accuracy. The following
 50 items are mandatory and if they are not properly completed, the
 51 entire filing will be rejected and returned to the lobbyist:

- 52 (1) All signatures on the statement must be ORIGINAL or ELECTRONIC
 53 in the format specified in the instructions provided by the
 54 Secretary that accompany this form. No stamps, or
 55 other reproductions of the individual's signature will be
 56 accepted.
- 57 (2) An individual MAY NOT sign the disclosure statement as lobbyist
 58 and principal officer.

59 STATEMENT OF LOBBYIST

60 I, the undersigned registered lobbyist, do state that the information
 61 furnished on this disclosure statement and on all accompanying
 62 attachments required to be made thereto is, to the best of my
 63 knowledge and belief, complete and accurate.

.....
Signature of lobbyist

.....
Date

STATEMENT OF PRINCIPAL

I, the undersigned principal (or an authorized official thereof), do state that the information furnished on this disclosure statement and on all accompanying attachments required to be made thereto is, to the best of my knowledge and belief, complete and accurate.

.....
Signature of principal

.....
Date

D. A person who signs the disclosure statement knowing it to contain a material misstatement of fact shall be guilty of a Class 5 felony.

E. Each lobbyist shall send to each legislative and executive official who is required to be identified by name on Schedule A or B of the Lobbyist's Disclosure Form a copy of Schedule A or B or a summary of the information pertaining to that official. Copies or summaries shall be provided to the official twice a year: by July 1 for the preceding five-month period ending May 1; and by January 5 for the preceding seven-month period ending December 31.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-787~~ 2.2-427. Filings; inspection.

Registration statements and lobbying reports shall be open to public inspection and copying during the regular business hours of the office of the Secretary of the Commonwealth.

Such statements and reports shall be deemed to have been filed only when actually received in the office of the Secretary or mailed to the Secretary by registered, certified, or regular mail with the sender retaining sufficient proof of mailing, which may be a United States Postal Certificate of Mailing.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-787.1~~ 2.2-428. Standards for automated preparation and transmittal of lobbyists' disclosure statements; database.

~~A. By January 1, 1998, the Secretary of the Commonwealth shall review or cause to be developed and shall approve standards for the preparation, production, and transmittal by computer or electronic means of the lobbyists' disclosure statements required by § 2-1-786. The Secretary may prescribe the method of execution and certification of electronically filed statements and the procedures for receiving statements in the office of the Secretary.~~

~~B. Prior to January 1, 1999, the Secretary may accept, and after January 1, 1999, the Secretary shall accept, any lobbyist's disclosure statement required by § 2-1-786 2.2-426 filed by computer or electronic means in accordance with the standards approved by the Secretary and using software meeting standards approved by the Secretary. The Secretary may provide software to filers without charge or at a reasonable cost. The Secretary may prescribe the method of execution and certification of electronically filed statements and the procedures for receiving statements in the office of the Secretary.~~

~~C. After January 1, 1999, the B.~~ The Secretary shall ~~enter or cause to be entered into~~ establish a lobbyist disclosure database, available to the public, ~~the information from required disclosure statements filed electronically and may enter or cause to be entered into that database information from required disclosure statements filed by other methods.~~

DRAFTING NOTE: Technical corrections. Subsection A has been deleted as obsolete since standards for electronic filings have been developed by the Secretary of the Commonwealth.

~~§ 2-1-788~~ 2.2-429. Retention of records by a lobbyist or lobbyist's principal.

A lobbyist and a lobbyist's principal shall preserve for a period of two years all accounts, bills, books, papers, receipts, and other documents and records necessary to substantiate the expenditure reports submitted under this ~~chapter~~ article.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-789~~ 2.2-430. Termination.

A lobbyist may terminate a lobbyist registration by filing a report required under ~~§ 2-1-786~~ 2.2-426 including information through the last day of lobbying activity. A termination report ~~must~~ shall indicate that the lobbyist intends to use the report as the final accounting of lobbying activity.

DRAFTING NOTE: Technical corrections only.

§-2.1-790 ~~2.2-431~~. Penalties; filing of substituted statement.

A. Every lobbyist failing to file the statement prescribed by § ~~2.1-786~~ 2.2-426 within the time prescribed therein shall be assessed a civil penalty of fifty dollars, and every individual failing to file the statement within ten days after the time prescribed herein shall be assessed an additional civil penalty of fifty dollars per day from the eleventh day of such default until the statement is filed. ~~Such~~ The penalties shall be assessed and collected by the Secretary. The Attorney General shall assist the Secretary in collecting the penalties, upon request.

B. Every lobbyist's principal whose lobbyist fails to file the statement prescribed by § ~~2.1-786~~ 2.2-426 shall be assessed a civil penalty of fifty dollars, and shall be assessed an additional civil penalty of fifty dollars per day from the eleventh day of such default until the statement is filed. ~~Such~~ The penalty shall be assessed and collected by the Secretary. The Attorney General shall assist the Secretary in collecting the penalties, upon request.

C. No individual who has failed to file the statement required by § ~~2.1-786~~ 2.2-426 or who has failed to pay all penalties assessed pursuant to this section, shall register or act as a lobbyist as long as he remains in default.

D. Whenever any lobbyist is or will be in default under § ~~2.1-786~~ 2.2-426, and the reasons for such default are or will be beyond his control, or the control of his principal, or both, the Secretary may suspend the assessment of any penalty otherwise assessable and accept a substituted statement, upon the submission of sworn proofs ~~which~~ that shall satisfy him that ~~such~~ the default has been beyond the control of the lobbyist or his principal, and that ~~such~~ the substituted statement contains the most accurate and complete information available after the exercise of due diligence.

E. Penalties collected pursuant to this section shall be payable to the State Treasurer for deposit to the general fund.

DRAFTING NOTE: Technical corrections only.

§-2.1-791 ~~2.2-432~~. Contingent compensation prohibited.

It shall be unlawful for any individual to lobby for compensation ~~which~~ that is dependent in any manner upon the outcome of any legislative or executive action.

DRAFTING NOTE: Technical corrections only.

§-2.1-792 ~~2.2-433~~. Prohibited acts; violation a misdemeanor.

A. No lobbyist shall:

1. Lobby in violation of the provisions of this ~~chapter~~ article;
2. Make any expenditure, or obligate himself to do so, in connection with lobbying, unless he fully discloses the expenditure as required in this ~~chapter~~ article; or
3. Misrepresent in any material respect or omit any information required to be reported pursuant to this ~~chapter~~ article.

B. No lobbyist's principal shall:

1. Fail to file any statement required to be filed by the provisions of this ~~chapter~~ article;
2. Misrepresent in any material respect or omit any information required to be reported pursuant to this ~~chapter~~ article; or
3. Violate any of the provisions of this ~~chapter~~ article.

C. Except as provided in subsection D of § ~~2.1-786~~ 2.2-426, any lobbyist or lobbyist's principal violating any provision of this ~~chapter~~ article shall be guilty of a Class 1 misdemeanor. However, a lobbyist who receives no compensation or anything of value for lobbying shall not be subject to the criminal penalties ~~pursuant to~~ prescribed by this section.

DRAFTING NOTE: Technical corrections only.

§-2.1-793 ~~2.2-434~~. Employment of lobbyists prohibited; exceptions.

~~Nothing in this chapter shall be construed so as to permit the employment~~ Employment of a lobbyist for compensation by an officer, board, institution or agency of the Commonwealth, ~~and any such employment~~ is expressly prohibited; however, this section shall not apply to any individual who is a full-time or part-time employee of such office, board, department, institution or agency of the Commonwealth.

DRAFTING NOTE: Technical corrections only.

§-2.1-794 ~~2.2-435~~. Prohibition for state party chairman.

The chairman or any full-time paid employee of a state political party, as defined in § 24.2-101, or a member of his immediate family, as defined in § ~~2.1-639.2~~ 2.2-3101, shall not be employed as a lobbyist by any principal.

DRAFTING NOTE: Technical corrections only.

SUBTITLE I
ORGANIZATION OF STATE GOVERNMENT.
PART B.
CHAPTER 5.
DEPARTMENT OF LAW.

Article 1.

General Provisions.

§ ~~2.1-117~~ 2.2-500. Attorney General to be chief executive officer; duties generally.

The Attorney General shall be the chief executive officer of the Department of Law, and ~~as such~~ shall perform such duties as may be provided by law.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-130~~ 2.2-501. Assistant and deputy Attorneys General.

The Attorney General shall appoint a chief deputy Attorney General and may appoint ~~such the necessary~~ deputy Attorneys General and assistant Attorneys General ~~as may be necessary~~ and may fix their salaries within the limitation of the funds provided for the purpose in the general appropriation ~~acts~~ act.

If a vacancy occurs in the office of Attorney General for any reason, the chief deputy Attorney General shall serve as acting Attorney General until such time as the vacancy is filled pursuant to § 24.2-213. The acting Attorney General shall exercise all the powers, and duties, and enjoy all the perquisites of the office of Attorney General as are provided by law.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-131~~ 2.2-502. ~~Clerical force~~ Support staff.

The Attorney General ~~shall have power to~~ may appoint such ~~clerical force persons~~ persons as he ~~may deem~~ deems necessary for the efficient conduct of his office, and ~~to apportion~~, out of the appropriation for his office, such salaries among ~~the law clerks, secretaries and stenographers~~ such persons as he ~~may think~~ deems proper, but the aggregate amount paid them shall not exceed the amount provided by law.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-132~~ 2.2-503. Office space.

The Governor shall assign to the Attorney General office space ~~in The Library of Virginia Building or elsewhere~~ for the Attorney General, his assistants and employees suitable for the transaction of the legal business of the Commonwealth.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-133~~ 2.2-504. Contingent and traveling expenses.

The Attorney General ~~shall have power to~~ may expend for the contingent expenses of his office ~~such sums as may be available out of the appropriation~~ the sums appropriated for his office ~~made~~ by the General Assembly. The Attorney General, the deputy and assistant Attorneys General, and other employees of the office shall be reimbursed for actual travel expenses in the performance of their duties in accordance with § 2.2-2823.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-118~~ 2.2-505. Official opinions of Attorney General.

A. The Attorney General shall give his advice and render official advisory opinions in writing only when requested in writing so to do by one of the following: the Governor; a member of the General Assembly; a judge of a court of record or a judge of a court not of record; the State Corporation Commission; an attorney for the Commonwealth; a county, city or town attorney in those localities in which such office has been created; a clerk of a court of record; a city or county sheriff; a city or county treasurer or similar officer; a commissioner of the revenue or similar officer; a chairman or secretary of an electoral board; or the head of a state department, division, bureau, institution or board.

B. Except in cases where ~~such an~~ an opinion is requested by the Governor or a member of the General Assembly, the Attorney General shall have no authority to render an official opinion unless the question dealt with is directly related to the discharge of the duties of the official requesting the opinion. Any opinion request to the Attorney General by an attorney for the Commonwealth or county, city or town attorney shall itself be in the form of an opinion embodying a precise statement of all facts together with such attorney's legal conclusions.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-120~~ 2.2-506. Legal services to attorneys for the Commonwealth in certain proceedings; costs.

1 The Attorney General shall at the request of an attorney for the Commonwealth, provide legal service to such
2 attorney for the Commonwealth in any proceedings brought against him seeking to restrain the enforcement of any state law.

3 Any costs chargeable against the defendant in any such case shall be paid by the Commonwealth from the
4 appropriation for the payment of criminal charges.

5 **DRAFTING NOTE:** Technical corrections only.

6 ~~§ 2-1-124 2.2-507.~~ Legal service in civil matters.

7 A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution,
8 division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which
9 any of them are interested, shall be rendered and performed by the Attorney General, except as ~~hereinafter~~ provided in this
10 chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No
11 regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board,
12 bureau, agency, entity, or official. The Attorney General, ~~in his discretion,~~ may represent personally or through one or more of
13 his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities,
14 officials, courts, or judges ~~which that~~ are parties to the same transaction or ~~which that~~ are parties in the same civil or
15 administrative proceeding and may represent multiple interests within the same department, institution, division, commission,
16 board, bureau, agency, or entity.

17 B. The Attorney General, ~~in his discretion,~~ may represent personally or through one of his assistants any of the
18 following persons who are made defendant in any civil action for damages arising out of any matter connected with their
19 official duties: ~~any member~~

20 ~~, agent, or employee~~

21 1. Members, agents or employees of the Alcoholic Beverage Control Board; ~~agent, inspector, or investigator~~

22 2. Agents inspecting or investigators appointed by the State Corporation Commission; ~~agent, investigator, or auditor~~

23 3. Agents, investigators, or auditors employed by the Department of Taxation; ~~member, agent, or employee~~

24 4. Members, agents or employees of the State Mental Health, Mental Retardation and Substance Abuse Services
25 Board, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the State Board of Health, the
26 State Department of Health, the Department of General Services, the State Board of Social Services, the Department of
27 Social Services, the State Board of Corrections, the Department of Corrections, the State Board of Juvenile Justice, the
28 Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services; ~~any~~
29 ~~person~~

30 5. Persons employed by the Commonwealth Transportation Board; ~~any person~~

31 6. Persons employed by the Commissioner of Motor Vehicles; ~~any person~~

32 7. Persons appointed by the Commissioner of Marine Resources; ~~any police~~

33 8. Police officer-officers appointed by the Superintendent of State Police; ~~any game~~

34 9. Game warden-wardens appointed by the Department of Game and Inland Fisheries; ~~any third~~

35 10. Third impartial panel member-members appointed to hear a teacher's grievance pursuant to § 22.1-312; ~~or any~~
36 ~~staff member or volunteer~~

37 11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 4-4
38 ~~(§ 9-173.6 et seq.) 5 (§ 9.1-151 et seq.) of Chapter 27 of Chapter 1 of Title 9.9.1; or~~

39 ~~If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by~~
40 ~~him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the~~
41 ~~Attorney General.~~

42 ~~The Attorney General, in his discretion, may represent personally or through one of his assistants any emergency~~
43 ~~medical service agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed~~
44 ~~by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties.~~

45 12. Any emergency medical service agency that is a licensee of the Department of Health in any civil matter and any
46 guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of
47 his court-appointed duties.

48 Upon request of the affected individual, the Attorney General may represent personally or through one of his
49 assistants any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by
50 authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to §
51 8.01-225.

52 C. ~~If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered~~
53 ~~by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the~~
54 ~~Attorney General.~~

55 The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the
56 board, commission, division or department whose members, officers, inspectors, investigators, or other employees are

1 | defended pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court, ~~in its~~
2 | ~~discretion,~~ may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

3 | **DRAFTING NOTE:** Technical corrections only.

4 | ~~§ 2.1-421.4~~ 2.2-508. Legal service in certain redistricting proceedings.

5 | Upon notification by a county, city or town of a pending civil action challenging the legality of its election district
6 | boundaries as required by § 24.2-304.5, the Attorney General shall review the papers in the civil action and may represent
7 | the interests of the Commonwealth in developing an appropriate remedy that is consistent with requirements of law, including
8 | but not limited to Article VII, Section 5 of the Constitution of Virginia or Chapter 3 (§ 24.2-300 et seq.) of Title 24.2.

9 | **DRAFTING NOTE:** Technical corrections only.

10 | ~~§ 2.1-421.2~~ 2.2-509. Representation in administrative proceedings.

11 | Notwithstanding any other provision of law, if the Attorney General finds after consultation with the head of the
12 | affected department that it is in the best interests of the Commonwealth to do so, the Attorney General may, ~~in his discretion,~~
13 | authorize any employee of his office or any employee of a department to represent that department or an affiliated body in
14 | any administrative proceedings before the department, an affiliated body or before any hearing officer or examiner appointed
15 | or employed by the department or affiliated body.

16 | **DRAFTING NOTE:** Technical corrections only.

17 | ~~§ 2.1-422~~ 2.2-510. Employment of special counsel generally.

18 | No special counsel shall be employed for or by the Governor or any state department, institution, division,
19 | commission, board, bureau, agency, entity, official, justice of the Supreme Court, or judge of any circuit court or district court
20 | except in the following cases:

21 | ~~(a)-1.~~ 1. Where because of the nature of the service to be performed, the Attorney General's office is unable to render
22 | ~~same such service,~~ the Governor after issuing an exemption order stating with particularity the facts and reasons upon which
23 | he bases his conclusion that the Attorney General's office is unable to render such service, may employ special counsel to
24 | render such service as the Governor may deem necessary and proper.

25 | ~~(b)-2.~~ 2. In cases of legal services in civil matters to be performed for the Commonwealth, where it is impracticable or
26 | uneconomical for the Attorney General to render ~~same such service,~~ he may employ special counsel whose compensation
27 | shall be paid out of the appropriation for the Attorney General's office.

28 | ~~(c)-3.~~ 3. In cases of legal services in civil matters to be performed for any state department, institution, division,
29 | commission, board, bureau, agency, entity, official, justice of the Supreme Court, or judge of any circuit court or district court
30 | where it is impracticable or uneconomical for the Attorney General's office to render ~~same such service,~~ special counsel may
31 | be employed but only upon the written recommendation of the Attorney General, who shall approve all requisitions drawn
32 | upon the Comptroller for warrants as compensation for such special counsel before the Comptroller shall have authority to
33 | issue such warrants.

34 | ~~(d)-4.~~ 4. In cases where the Attorney General certifies to the Governor that it would be improper for the Attorney
35 | General's office to render legal services due to a conflict of interests, or that he is unable to render certain legal services, the
36 | Governor may employ special counsel or other assistance to render such services as may be necessary.

37 | **DRAFTING NOTE:** Technical corrections only.

38 | ~~§ 2.1-424~~ 2.2-511. ~~(Effective January 1, 1998)~~ Criminal cases.

39 | A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or
40 | conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the
41 | Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as
42 | provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state
43 | bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child
44 | pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or
45 | licensed or the illegal practice of law, (viii) with the concurrence of the local attorney for the Commonwealth, violations of the
46 | Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (ix) with the concurrence of the local attorney for the Commonwealth,
47 | violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.),
48 | and the State Water Control Law (§ 62.1-44.2 et seq.), (x) with the concurrence of the local attorney for the Commonwealth,
49 | violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes
50 | relate to violations of law listed in clause (ix) of this subsection, and (xi) with the concurrence of the local attorney for the
51 | Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, in which cases
52 | the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may, ~~in his discretion,~~
53 | institute proceedings by information, presentment or indictment, as ~~the one or the other may be~~ appropriate, and conduct the
54 | same.

1 In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney
2 General to appear or participate in the proceedings shall not attach unless and until a petition for appeal has been granted by
3 the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of
4 Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall
5 appear and represent the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court
6 of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the
7 Court of Appeals to the Supreme Court.

8 B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such
9 reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing and
10 disposition of any appeal or habeas corpus proceeding involving the ~~case or~~ cases in which such person was a victim. For
11 the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct
12 result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse,
13 child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to
14 appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or
15 create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General
16 or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political
17 subdivisions, or any officer of the court.

18 **DRAFTING NOTE:** Technical corrections only.

19 ~~§ 2-1-125~~ 2.2-512. Employment of special counsel to prosecute persons illegally practicing law.

20 Notwithstanding any other provision of law, the Attorney General ~~is hereby authorized to~~ may expend funds
21 appropriated to his office for the purpose of employing special counsel to investigate and prosecute ~~any a~~ complaint that any
22 person is engaged in the practice of law without being duly authorized or licensed so to do or is practicing law in violation of
23 law. The compensation of ~~each the~~ special counsel shall be paid out of the appropriation for the Attorney General's office. No
24 ~~each~~ special counsel shall be employed and paid except upon the request of the Executive Committee of the Virginia State
25 Bar.

26 **DRAFTING NOTE:** Technical corrections only.

~~§ 2-1-126~~ 2.2-513. Counsel for Commonwealth in federal matters.

27 The Attorney General shall represent the interests of the Commonwealth, its departments, boards, institutions and
28 commissions in matters before or controversies with the officers and several departments of the government of the United
29 States.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2-1-127~~ 2.2-514. Compromise and settlement of disputes.

32 Except as provided in subsection B of § 23-38.33:1, the Attorney General ~~shall have the authority to~~ may
33 compromise and settle disputes, claims and controversies involving the interests of the Commonwealth, and ~~to~~ may
34 discharge any such claims, but only after the proposed compromise, settlement or discharge, together with the reasons
35 therefor, have been submitted in writing to the Governor and approved by him. Where any dispute, claim or controversy
36 involves the interests of any department, institution, division, commission, board or bureau of the Commonwealth, the
37 Attorney General ~~shall have authority to~~ may compromise and settle or discharge the same provided ~~such the~~ action is
38 approved both by the Governor, ~~in the manner above as provided in this section,~~ and by the head of the department,
39 institution, division, board or bureau which is interested. However, when any dispute, claim or controversy involves the
40 interests of any department, institution, division, commission, board or bureau of the Commonwealth, and the amount in
41 dispute does not exceed \$50,000, the Attorney General or an assistant Attorney General assigned to such department,
42 institution, division, commission, board or bureau ~~shall have the authority to~~ may compromise and settle or discharge the
43 same provided ~~such the~~ action is approved by the head of the department, institution, division, board or bureau whose
44 interests are in issue. When the dispute, claim or controversy involves a case in which the Commonwealth has a claim for
45 sums due it as the result of hospital, medical or dental care furnished by or on behalf of the Commonwealth, the Attorney
46 General or such assistant Attorney General ~~shall have the authority to~~ may compromise and settle and discharge the same
47 when the amount in dispute does not exceed \$50,000.

48 **DRAFTING NOTE:** Technical corrections only.

49 ~~§ 2-1-127.42~~ 2.2-515. Service on board of national tobacco trust entity.

50 The Attorney General ~~is authorized to~~ may serve in his official capacity on the board of directors of any entity
51 established to ensure the implementation in the Commonwealth of a national tobacco trust established to provide payments
52 to tobacco growers and tobacco quota owners to ameliorate adverse economic consequences resulting from a national
settlement of states' claims against tobacco manufacturers.

53 **DRAFTING NOTE:** Technical corrections only.

1 | § ~~2.1-128~~ 2.2-516. Annual report.

2 | The Attorney General shall annually, on or before May 1, deliver to the Governor a report of the state and cond.
3 | of all important matters in which he has represented the Commonwealth during the preceding year. He shall also include ..
4 | his report the official opinions rendered by him that he believes to be of general interest or helpful in promoting uniformity in
5 | the construction of the laws of the Commonwealth.

6 | **DRAFTING NOTE:** Technical corrections only.

7 | Article 2.

8 | Division of Consumer Counsel.

9 | § ~~2.1-133.4~~ 2.2-517. Division of Consumer Counsel created; duties.

10 | A. There is hereby created in the office of the Attorney General Department of Law a Division of Consumer Counsel
11 | (the "Division") which that shall represent the interests of the people as consumers.

12 | B. The duties of such the Division shall be to:

13 | (a)-1. Appear before governmental commissions, agencies and departments, including the State Corporation
14 | Commission, to represent and be heard on behalf of consumers' interests, and investigate such matters relating to such
15 | appearance.

16 | (b)-2. Make such studies related to enforcing consumer laws of the Commonwealth as deemed necessary to protect
17 | the interests of the consumer and recommend to the Governor and General Assembly the enactment of such legislation
18 | deemed necessary to promote and protect the interests of the people as consumers.

19 | C. The Division, in all investigations connected with enforcing consumer laws and appearances before governmental
20 | bodies shall, on behalf of the interests of the consumer, cooperate and coordinate its efforts with such commissions, agencies
21 | and departments in ensuring that any matters adversely affecting the interests of the consumer are properly controlled and
22 | regulated. The appearance of a representative of the Division before any governmental body shall in no way limit or alter the
23 | duties of such governmental body.

24 | **DRAFTING NOTE:** Technical corrections only. This proposed section is comprised of existing § 2.1-133.1 as subsections A
25 | and B, and § 2.1-133.3 as subsection C.

26 | § ~~2.1-133.2~~. ~~Salaries of personnel in Division of Consumer Counsel.~~

27 | ~~The Attorney General may employ and fix the salaries of such attorneys, employees and consultants, within~~
28 | ~~amounts appropriated to the Attorney General for providing legal service for the Commonwealth, and other services as may~~
29 | ~~be provided for by law, as he may deem necessary in the operation of the Division of Consumer Counsel to carry out its~~
30 | ~~functions.~~

31 | **DRAFTING NOTE:** Technical corrections only. This section has been deleted as duplicative of existing § 2.1-130 (proposed
32 | § 2.2-501) infra.

33 | § ~~2.1-133.3~~. ~~Cooperation between Division of Consumer Counsel and governmental bodies.~~

34 | ~~The Division of Consumer Counsel in all investigations connected with enforcing consumer laws and appearances~~
35 | ~~before the above governmental bodies shall, on behalf of the interests of the consumer, cooperate and coordinate its efforts~~
36 | ~~with such commissions, agencies and departments in insuring that any matters adversely affecting the interests of the~~
37 | ~~consumer are properly controlled and regulated. The appearance of a representative of the Division of Consumer Counsel~~
38 | ~~before any governmental body shall in no way limit or alter the duties of such governmental body.~~

39 | **DRAFTING NOTE:** This section has been merged with proposed § 2.2-517 as new subsection C.

40 | Article 3.

41 | Division of Debt Collection.

42 | § ~~2.1-133.4~~ 2.2-518. Division of Debt Collection.

43 | There is hereby created in the Department of Law a Division of Debt Collection which that shall provide all legal
44 | services and advice related to the collection of funds owed to the Commonwealth, pursuant to § ~~2.1-124~~ 2.2-507 and the
45 | Virginia Debt Collection Act (§ ~~2.1-726~~ 2.2-4800 et seq.).

46 | The Attorney General may appoint and fix the salaries of such attorneys and employees as may be necessary to
47 | carry out the functions of the Division, within the amounts appropriated to the Division, and may supplement such funds from
48 | appropriations made to his office for the provision of legal services to the Commonwealth.

49 | **DRAFTING NOTE:** Technical corrections only.

SUBTITLE I.
PART C.
STATE AGENCIES RELATED TO THE
GENERAL OPERATION OF GOVERNMENT.

CHAPTER 6.

Article 1.

General Provisions.

§ ~~2-1-4.2~~ 2.2-600. Standard nomenclature to be employed.

Every independent administrative entity established by law and every collegial body established by law or executive order within the executive branch of state government shall be designated according to a standard nomenclature system. The following definitions shall be applied:

"Department" means an independent administrative agency within the executive branch.

"Office" means an administrative office of the Governor, Lieutenant Governor, Attorney General or a governor's secretary.

"Board" means a permanent collegial body affiliated with an agency.

"Commission" or "Council" means a permanent collegial body either affiliated with more than one agency or independent of an agency within the executive branch.

~~"Commission" means a temporary collegial body established within the executive branch for a specified purpose and specified period of time.~~

"Division," "Bureau," "Section," "Unit" or other similar titles shall be reserved for internal groupings within agencies.

Exceptions to this standard nomenclature ~~may~~ shall be used only for agencies and entities with unique characteristics requiring unique descriptive titles, including museums, libraries and historic or commemorative attractions.

DRAFTING NOTE: Technical corrections only.

§ 2.2-601. General powers of the departments established in this title.

Each department established in this title shall have the following general powers to:

1. Employ such personnel as may be required to carry out the respective purposes for which such department was created;

2. Make and enter into contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this title;

3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, each department shall have the power to comply with the conditions and execute the agreements necessary, convenient, or desirable; and

4. Do all acts necessary or convenient to carry out the respective purposes for which the department was created.

DRAFTING NOTE: This new section represents the consolidation of the various repetitive existing sections dealing with the general powers of each agency created in this subtitle.

§ ~~2-1-44.7~~ 2.2-602. Duties of agencies and their appointing authorities.

The heads of state agencies shall be the appointing authorities of the respective agencies, and shall establish and maintain within their agencies ~~such~~ methods of administration relating to the establishment and maintenance of personnel standards on a merit basis ~~as that~~ are approved by the Governor for the proper and efficient enforcement of ~~the chapter the~~ Virginia Personnel Act (§ 2.2-2900 et seq.). But the Governor shall exercise no authority with respect to the selection or tenure of office of any individual employed in accordance with such methods, except when the Governor is the appointing authority.

~~At their discretion, appointing~~ Appointing authorities may assign to the personnel officers or to other officers and employees of their agencies such personnel duties as they see fit.

Agencies shall establish and maintain rosters of their employees ~~in which that~~ shall be set forth, as to each employee, the class title, pay and status and such other data as they may deem desirable to produce significant facts pertaining to personnel administration.

Agencies shall establish and maintain such promotion and employment lists, rated according to merit and fitness, as they deem desirable; ~~but such agencies as desire to do so.~~ Agencies may make use of the employment list kept by the Department of Human Resource Management in lieu of keeping employment lists for their agencies.

1 Agencies shall supply the Governor with any information he deems necessary for the performance of his duties in
2 connection with the administration of ~~this chapter~~ Virginia Personnel Act (§ 2.2-2900 et seq.).

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 2.1-20.01:1~~ 2.2-603. Authority of agency directors.

5 A. Notwithstanding any provision of law to the contrary, the agency director of each ~~executive branch~~ agency in the
6 executive branch of state government shall have the ~~following powers and duties:~~

7 ~~1. To power and duty to (i)~~ supervise and manage the department or agency.

8 ~~2. To and (ii)~~ prepare, approve, and submit to the Governor all requests for appropriations and to be responsible for
9 all expenditures pursuant to appropriations.

10 B. The ~~agency~~ director of each ~~executive branch~~ agency in the executive branch of state government, except those
11 that by law are appointed by their respective boards, shall not proscribe any agency employee from discussing the functions
12 and policies of the agency, without prior approval from his supervisor or superior, with any person unless the information to be
13 discussed is protected from disclosure by the Virginia Freedom of Information Act (~~§ 2.1-340~~ 2.2-3700 et seq.) or any other
14 provision of state or federal law.

15 C. ~~No provision in subsection~~ Subsection A shall not be construed to restrict any other specific or general powers
16 and duties of executive branch boards granted by law.

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

19 E. In addition to the requirements of subsection C of ~~§ 2.1-700~~ 2.2-619, the director of each agency in any branch of
20 state government shall, at the end of each fiscal year, report to (i) the Secretary of Finance and the Chairmen of the House
21 Committee on Appropriations and the Senate Committee on Finance ~~Committees~~ a listing and general description of any
22 federal contract, grant, or money in excess of \$1,000,000 for which the agency was eligible, whether or not the agency
23 applied for, accepted, and received such contract, grant, or money, and, if not, the reasons therefore, and a listing and cost of
24 any federal mandate or regulation affecting the agency, and the dollar amount and corresponding percentage of the agency's
25 total annual budget that was supplied by funds from the federal government and (ii) the Chairmen of the House Committees
26 on Appropriations, House and Finance, and the Senate Committee on Finance ~~Committees~~ any amounts owed to the agency
27 from any source that are more than six months delinquent, the length of such delinquencies, and the total of all such
28 delinquent amounts in each six-month interval; ~~however, clause~~ Clause (i) shall not be required of public institutions of
29 higher education.

30 F. On or before December 1, 1999, the director of every department ~~listed in § 2.1-1.4 in the executive branch of~~
31 state government shall appoint an agency information officer from among the department's employees to (i) ensure the
32 coordinated planning, practical acquisition, effective development, and efficient use of information technology resources and
33 communications services to meet the department's needs and (ii) serve as the department's liaison to the ~~Office of the~~
34 Secretary of Technology ~~created pursuant to Executive Order Nine (1998), as amended by Executive Order Thirty Three~~
35 ~~(1998)~~.

36 **DRAFTING NOTE:** Technical corrections. Reference to Executive Order Nine (1998), as amended, has been deleted as
37 obsolete. The office of the Secretary of Technology was statutorily created in accordance with Chapter 412 of the 1999 Acts
38 of Assembly.

39 ~~§ 2.1-20.01:2~~ 2.2-604. Performance of duties assigned to an agency.

40 The chief executive officer may delegate or assign to any officer or employee of his agency any tasks required to be
41 performed by him or the agency and, in the case of an agency with a supervisory board, such board may delegate or assign
42 the tasks. Except as otherwise provided by law, the chief executive officer may also delegate to any officer or employee of
43 any state or quasi-state agency nondiscretionary duties conferred or imposed upon the chief executive officer or his agency
44 by law where the delegation of duties is necessary to achieve efficiency and economy in the administration of government.
45 The chief executive officer or supervisory board delegating or assigning tasks shall remain responsible for the performance of
46 such tasks.

47 Any delegation pursuant to this section shall, where appropriate, be accompanied by written guidelines for the
48 exercise of the tasks delegated. Where appropriate, ~~such the~~ guidelines shall require that agency heads receive summaries
49 of actions taken. Such delegation shall not relieve the chief executive officer or supervisory board of the responsibility to
50 ensure faithful performance of the duties and tasks.

51 **DRAFTING NOTE:** Technical corrections only.

52 ~~§ 2.1-20~~ 2.2-605. Appointment of acting officer in case of temporary disability.

53 When any officer in charge of or at the head of any division or department of the state government shall, because of
54 sickness or for any other reason, be unable to perform the duties of his office and no provision is made for someone, or for
55 the appointment of someone, to exercise the powers and perform the duties of such office while ~~such the~~ officer is sick or

unable to act, the Governor ~~shall have the power to~~ may appoint some person temporarily to fill such office as acting head or in charge of such division or department, who shall after qualifying exercise the powers and perform the duties of such office until the incumbent returns or the office ~~be~~ is otherwise filled.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-7.2~~ 2.2-606. Consideration of certain issues in policy development.

In the formulation and implementation of policies and regulations, each department and division of the executive branch and those boards affiliated with a state agency within the executive branch of state government shall consider the impact of ~~such~~ the policies and regulations on family formation, stability, and autonomy. This section shall not be construed to confer a right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its agencies, officers, or any other person.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-144.7:1~~ 2.2-607. Reporting transfers of personnel; granting reports.

A. Whenever a state employee is transferred for a limited period of time from one state agency to another without transferring appropriations, as may be provided by law, ~~such~~ the transfer shall be reported by the transferring agency to the Department of Human Resource Management, including the name and classification of the employee, the name of the transferring and receiving agencies and the length of time of transfer. If, at a subsequent time, the length of time is shortened or extended, a subsequent report of that fact shall also be submitted.

B. A consolidated report of all ~~such~~ current transfers and all that have begun and ended within the preceding three-month period shall be prepared as of the first day of each January, April, July and October. A copy of each ~~such~~ report shall be submitted to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance Committees and the Director of the Department of Planning and Budget no later than three working days after the effective date of the report.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-2.1~~ 2.2-608. Furnishing reports; Governor authorized to require reports.

Agencies ~~which that~~ are specifically required by the Code of Virginia to report annually or biennially to the Governor and General Assembly shall submit their reports on or before October 1 of each year, unless otherwise specified. The Governor, ~~in his discretion,~~ may require any agency to furnish an annual or biennial report. Agencies shall distribute such reports in accordance with the provisions of ~~§ 2.1-467~~ 2.2-1127.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-467.4~~ 2.2-609. Records to be kept by agencies; information to be furnished to Librarian of Virginia upon request; copy of publications.

A. Every agency shall maintain such records of the cost of printing and distributing publications, and the revenue therefrom, as are necessary to disclose the actual costs of such publication and mailing and the revenue received therefrom. In addition to other expenses, there shall be included in the cost of publication the cost of purchased materials, staff time and the expenses involved in printing and mailing any such publication. Each agency shall furnish to the Librarian of Virginia such records of costs of printing and distribution, along with such additional information relating to cost of printing and distribution of such publications as shall be specifically requested by the Librarian of Virginia.

B. Every agency shall furnish such number of copies as may be designated by the Librarian of Virginia of each of its publications at the time of issue to The Library of Virginia for its collection and copies sufficient for the depository system and for exchange purposes, not exceeding 100 copies.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 2.1-467.4 and subsection B is § 2.1-467.2.

~~§ 2.1-2.2~~ 2.2-610. Furnishing copies of documents at no cost to law enforcement officials.

All agencies and instrumentalities of the Commonwealth shall provide, at no cost, copies of documents requested by the Department of State Police or other law-enforcement officers as part of an active criminal investigation.

"Law-enforcement officer" means the same as that term is defined in ~~§ 9-469~~ 9.1-101.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-3~~ 2.2-611. Acceptance by departments, etc., of funds from United States; application of funds.

A. Any department, agency, bureau or institution of ~~this~~ the Commonwealth may (i) accept grants of funds made by the United States government; or any department or agency thereof, to be applied to purposes within the functions of such

1 state department, agency, bureau or institution, and ~~may~~ (ii) administer and expend such funds for the purposes for which
2 they are granted.

3 ~~B. The State Treasurer is appointed custodian of all such funds, and shall disburse them on warrants issued by the~~
4 ~~Comptroller for the department, agency, bureau or institution for whose use they are granted.~~

5 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
6 A is § 2.1-3 and subsection B is § 2.1-4.

7 ~~§ 2.1-4. State Treasurer custodian of funds granted; disbursements.~~

8 ~~The State Treasurer is hereby appointed custodian of all such funds, and shall disburse them on warrants issued by~~
9 ~~the department, agency, bureau or institution for whose use they are granted.~~

10 **DRAFTING NOTE:** Technical corrections. This section was moved to proposed § 2.2-611 as new subsection B.

11 ~~§ 2.1-7.3 2.2-612.~~ Notification to localities of reduction or discontinuation of service.

12 A. No agency, board, commission or other entity of the Commonwealth shall take any action to reduce or discontinue
13 a service ~~which that~~ it performs for a local government or reduce or discontinue any form of financial assistance to a local
14 government without first notifying all affected local governments and the Virginia Advisory Commission on Intergovernmental
15 Relations at least ninety days in advance of ~~such the~~ proposed action. However, in emergencies, certified by the Governor for
16 executive branch agencies or by the chief administrative officer for any other entity of the Commonwealth, such action may be
17 taken immediately following the notice. The Virginia Advisory Commission on Intergovernmental Relations shall hold hearings
18 on any such notice and shall render an advisory report to the Governor and to the succeeding session of the General
19 Assembly on the ramifications for the Commonwealth and its localities of ~~such the~~ action.

20 B. ~~Subsection The provisions of subsection A of this section~~ shall not apply to any action taken by an executive
21 branch agency or other entity of the Commonwealth pursuant to a specific legislative requirement, agreement or contract
22 negotiated with a local government, the application of a statute prescribing periodic adjustments in state financial assistance,
23 workforce reduction resulting from diminished appropriation or legislated early retirement provisions, or judicial decree.

24 C. Nothing in subsection A ~~of this section~~ shall apply to any officer who receives funding under § ~~14.1-50-15.2-~~
25 ~~1636.7~~ or who may appeal Compensation Board budget decisions under § ~~14.1-52-15.2-1636.9~~ or § ~~14.1-52.04-15.2-~~
26 ~~1636.10~~, or to those payments made to localities in accordance with §§ 53.1-20.1, 53.1-83.1, 53.1-84, or § 53.1-85.

27 **DRAFTING NOTE:** Technical corrections only.

28 ~~§ 2.1-7.4 2.2-613.~~ Agency mandates on localities; assessment.

29 Pursuant to § ~~15.2-945.3 15.2-2903~~, all agencies, as defined in § ~~2.1-8.2 2.2-128~~, shall conduct an assessment of all
30 mandates imposed on local governments administered by ~~such the~~ agency to determine which mandates, if any, may be
31 altered or eliminated.

32 **DRAFTING NOTE:** Technical corrections only.

33 ~~§ 2.1-7 2.2-614.~~ Purebred livestock raised by state institutions and agencies may be sold instead of slaughtered.

34 The person in charge of any state institution or agency ~~which that~~ raises purebred livestock may, when any of ~~such~~
35 ~~the~~ livestock are to be slaughtered, sell the same to any person desiring to acquire ~~such the~~ livestock for breeding purposes,
36 provided the interests of the institution or agency will not be adversely affected ~~thereby by the sale~~.

37 **DRAFTING NOTE:** Technical corrections only.

38 Article 2.

39 Implementation Of Federal Mandates Act.

40 ~~§ 2.1-795 2.2-615.~~ Short title.

41 This chapter shall be known and may be cited as the "Implementation of Federal Mandates Act".

42 **DRAFTING NOTE:** Technical corrections only.

43 ~~§ 2.1-796 2.2-616.~~ Legislative declaration.

44 A. In enacting this chapter, the General Assembly employs its legislative authority to establish that the people of
45 Virginia, acting through their elected officials in Virginia government, have the responsibility and authority to establish policy in
46 and for Virginia pertaining to federal programs mandated in federal statutes.

47 B. The intent of the General Assembly is to assure the primacy of the ~~Commonwealth of Virginia's~~ Commonwealth's
48 legal and political authority to implement in and for Virginia the policy mandated by federal statutes and to vigorously
49 challenge and scrutinize the extent and scope of authority asserted by federal executive branch agencies when f 1

1 agency actions and interpretations are inconsistent with Virginia policy and exceed the lawful authority of the federal
2 government or are not required by federal law.

3 C. In this connection the General Assembly finds and declares that:

4 1. The power to implement federal policies in and for Virginia is central to the ability of the people of Virginia to
5 govern themselves under a federal system of government; and

6 2. Any implementation of federal policies in and for Virginia by federal executive branch agencies that is contrary to
7 fundamental notions of federalism and self-determination must be identified and countered.

8 D. The General Assembly further finds and declares that:

9 1. There is an urgent need to modify federal mandates because the implementation of these mandates by the
10 Commonwealth wastes the financial resources of local governments, the citizens of Virginia and the Commonwealth and does
11 not properly respect the rights of the Commonwealth, local governments, and citizens.

12 2. The state government has an obligation to the public to do what is necessary to protect the rights of Virginia
13 citizens under federal law while minimizing or eliminating any additional cost or regulatory burden on any citizen of the
14 Commonwealth.

15 3. The Tenth Amendment to the United States Constitution directs that powers that are not delegated to the United
16 States are reserved to the states or to the people. Virginia, as one of the sovereign states within the Union, has constitutional
17 authority to enact laws protecting the environment of the Commonwealth and safeguarding the public health, safety, and
18 welfare of the citizens of Virginia. However, this authority has too often been ignored by the federal government, as the
19 federal government has intruded more and more into areas that must be left to the states. It is essential that the dilution of
20 the authority of state and local governments be halted and that the provisions of the Tenth Amendment be accorded proper
21 respect.

22 4. Current federal regulatory mandates, as reflected in federal administrative regulations, guidelines, and policies,
23 often do not reflect the realities of Virginia and federal regulators frequently do not understand the needs and priorities of the
24 citizens of Virginia.

25 5. The citizens of the Commonwealth can create and wish to create innovative solutions to Virginia's problems, but
26 the current manner in which legal challenges to state policies and federal programmatic substitutions of state programs are
27 handled does not allow the Commonwealth the flexibility it needs. It is not possible for the Commonwealth of Virginia to
28 effectively and efficiently implement the provisions of federal statutes unless the burden to prove the insufficiency of the
29 Commonwealth's efforts to implement federal requirements is shifted to the person or agency who asserts such insufficiency.

30 6. The provisions of this chapter will better balance the exercise of the powers of the federal government and the
31 powers reserved to the states. In addition, the application of this chapter ultimately will bring about greater protection for the
32 Commonwealth and the nation because it will direct the Commonwealth to implement federal statutes at the least possible
33 cost, thereby freeing more moneys for other needs.

34 7. The purpose of this chapter is to ensure that federal mandates implemented in Virginia comply with state policy
35 as established by the General Assembly.

36 **DRAFTING NOTE:** Technical corrections only.

37 | § ~~2-1-797~~ 2.2-617. Definitions.

38 As used in this chapter, unless the context requires otherwise:

39 "Federal statute" means a federal statute that is in accord with the United States Constitution imposing mandates on
40 state or local governments, which may include, but is not limited to, the following:

41 1. The Safe Drinking Water Act, 42 U.S.C. § 300 f, et seq., as amended;

42 2. The Clean Air Act, 42 U.S.C. § 7401, et seq., as amended;

43 3. The Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., as amended;

44 4. The Solid Waste Disposal Act, 42 U.S.C. § 3251, et seq., as amended;

45 5. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq., as amended;

46 6. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et
47 seq., as amended;

48 7. The Superfund Amendments and Reauthorization Act of 1986, P.L. 99-499, as amended;

49 8. The Endangered Species Act of 1973, 16 U.S.C. § 1531, et seq., as amended;

50 9. The Asbestos School Hazard Abatement Statute, 20 U.S.C. § 4011, et seq., as amended;

51 10. The Brady Handgun Violence Prevention Act of 1993, P.L. 101-336, as amended;

52 11. The Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. § 2501, et seq., as amended;

53 12. The Family and Medical Leave Act of 1993, P.L. 103-3, as amended;

- 1 13. The Emergency Planning and Community Right-to-Know Act, P.L. 99-145 and 99-499, as amended;
- 2 14. The Federal, State, and Local Partnership for Education Improvement Program, 20 U.S.C. § 1751, et seq., as
- 3 amended;
- 4 15. The National Voter Registration Act of 1993, P.L. 103-31, as amended;
- 5 16. The Federal School Lunch Program and School Breakfast Program, 42 U.S.C. §§ 1751 and 1773, P.L. 101-336,
- 6 as amended;
- 7 17. The Federal Social Services and Medicaid Requirements, 42 U.S.C. § 1396, et seq., as amended;
- 8 18. The Federal Highway Safety Programs; and
- 9 19. The Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, as amended.

10 **DRAFTING NOTE:** Technical corrections only.

11 ~~§ 2-1-708~~ 2.2-618. State programs to implement federal statutes.

12 A. ~~Any state officer, official, or employee charged with the duty of implementing any federal statute shall implement~~
 13 ~~the law as required by the federal statute in good faith and exercising a critical view toward the provisions of any federal~~
 14 ~~regulation, guideline, or policy in order to identify those provisions of any federal regulation, guideline, or policy that are~~
 15 ~~inconsistent with Virginia policy or do not advance Virginia policy in a cost-effective manner.~~

16 B. Any agency of the executive branch of state government that is authorized to develop a state program to ~~respond~~
 17 ~~to implement~~ any mandates contained in a federal statute shall develop the state program and ~~promulgate~~adopt any
 18 necessary regulations using the following criteria:

19 1. State programs shall be developed by the agency to meet the requirements of federal statutes in good faith with a
 20 critical view toward any federal regulations, guidelines, or policies.

21 2. State programs shall be developed with due consideration of the financial restraints of the Commonwealth, local
 22 governments, and the citizens of Virginia ~~and the Commonwealth~~.

23 3. Any state program that implements the goals of the federal statute shall use the most efficient method possible
 24 with careful consideration given to cost of the program and the impact of the program on Virginia citizens and local
 25 governments, and the long-range public health, safety, and welfare of citizens of the Commonwealth.

26 **DRAFTING NOTE:** Technical corrections only. Subsection A was deleted as duplicative of subsection B.

27 ~~§ 2-1-709~~ 2.2-619. Governor to report to the General Assembly.

28 A. The Governor shall report to the General Assembly regarding the proposed implementation of this section.

29 B. If any state program is authorized or mandated by a federal statute, no state funds for the program shall be
 30 appropriated unless:

31 1. The state program is necessary to protect the public health, safety, and welfare;

32 2. The state program is necessary to implement the federal statute;

33 3. The operation of the state program benefits the state by providing a cost-effective implementation of the federal
 34 statute by the Commonwealth, local government, and business; or

35 4. The state program benefits the Commonwealth, local government, and business by providing a cost-effective
 36 means to meet a higher public health, safety, and welfare standard established under state law.

37 C. Each agency making a budget request for state appropriations for a state program authorized or mandated by
 38 federal statute shall include in its budget request citations to the federal constitutional provisions and the state constitutional
 39 or statutory provisions that authorize the state program. The Governor shall review the budget request and determine whether
 40 additional state statutory authority is required in order to implement the state program and shall make recommendations to
 41 the General Assembly.

42 D. The General Assembly, after receiving a recommendation from the Governor, shall determine whether a state
 43 program is necessary and whether federal constitutional authority and state constitutional or statutory authority exist. ~~[The~~
 44 ~~General Assembly shall exercise a critical review toward the interpretation of the federal statute found in federal regulations,~~
 45 ~~guidelines, or policies].~~ Enactment Appropriation of state ~~appropriations~~ funds for a state program shall constitute the General
 46 Assembly's determination that the state program is necessary and that federal constitutional authority and state constitutional
 47 or statutory authority exist. State appropriations may not be based solely on requirements found in regulations, guidelines, or
 48 policies of a federal agency.

49 E. Prior to recommending to the General Assembly any budget for an agency that is charged with implementing
 50 federal mandates, the Governor shall request that the agency provide information to the Department of Planning and Budget
 51 regarding any monetary savings for the state and any reduction in regulatory burdens on the public and on local governments
 52 that could be or have been achieved through the development of state policies that meet the intent of the federal statute but
 53 do not necessarily follow all applicable federal regulations, guidelines, or policies. The agency shall also provide advice to the
 54 Department of Planning and Budget regarding any changes in law that are necessary to provide the agency with the authority

to implement state policies in such a way as to create additional savings or greater reductions in regulatory burdens. The Department of Planning and Budget shall review and compile the information received from agencies pursuant to this section and shall include recommendations in the executive budget.

F. For purposes of this section, "state program" shall not include any portion of a program that is funded with nontax or nonfee revenue, or both, which state authorities are required to administer in a trusteeship or custodial capacity and which that are not subject to appropriation by the General Assembly.

DRAFTING NOTE: Technical corrections only.

CHAPTER 7.

DEPARTMENT FOR THE AGING.

Article 1.

General Provisions.

~~§ 2.1-374~~ 2.2-700. Department created; appointment of Commissioner.

~~The duties of the Office on Aging are continued. The Office shall be known as the A. There is created a Department for the Aging, hereinafter referred to as (the "Department"). The Department which shall be under the supervision and direction of the Governor. The Governor shall appoint headed by a Commissioner of the Department who shall hold his position appointed by the Governor to serve at the his pleasure of the Governor and shall be paid such compensation as the Governor may fix.~~

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

DRAFTING NOTE: Technical corrections only. Subsection B was added to standardize, among the various agencies in this title, language relating to the Director's exercise of powers/duties conferred by law, etc. Subsection A has been amended to comply with existing § 2.1-41.2, which requires that all agency heads appointed by the Governor shall be subject to confirmation by the General Assembly, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor.

~~§ 2.1-372. General powers of Department.~~

~~The Department shall have the following general powers:~~

~~(a) To employ such personnel as may be required to carry out the purposes of this chapter.~~

~~(b) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other states, agencies and governmental subdivisions of Virginia.~~

~~(c) To accept grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable.~~

~~(d) To do all acts necessary or convenient to carry out the purposes of this chapter.~~

DRAFTING NOTE: Technical corrections only. The stricken language has been consolidated with other like provisions into proposed § 2.2-601, which is located at the beginning of Chapter 6—State agencies; in Article 1, general provisions.

~~§ 2.1-373.8~~ 2.2-701. Nature of long-term care services.

A. The long-term care services shall include the following categories: socialization services, health care services, nutrition services, daily living services and supportive services.

B. As used in this section:

"Socialization services" includes telephone reassurance, friendly visiting and congregate meals.

"Health care services" includes home health care and community medical care.

"Nutrition services" includes home-delivered meals, food stamps and congregate meals.

"Daily living services" includes homemaker, companion, personal care and chore services, home repair, weatherization and adult day care.

"Supportive services" includes adult protective services, mental health and mental retardation services, counseling services and legal aid.

DRAFTING NOTE: Technical corrections.

~~§ 2.1-373.6~~ 2.2-702. Administrative responsibilities of Department regarding long-term care.

1 The administrative responsibilities of the Department ~~for the Aging~~ regarding long-term care shall be to:

2 1. ~~Expired~~

3 2. ~~Develop~~ appropriate fiscal and administrative controls over public long-term care services in the Commonwealth.

4 3. ~~Develop~~ a state long-term care plan to guide the coordination and delivery of services by the human resources
5 agencies, including transportation services. The plan shall ensure the development of a continuum of long-term care
6 programs and services for the impaired elderly population in need of services.

7 4. ~~Identify~~ programmatic resources and assure the equitable statewide distribution of these resources.

8 5. ~~Perform~~ ongoing evaluations of the cost-effective utilization of long-term care resources.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 2-1-373 2.2-703.~~ Powers and duties of Department with respect to aging persons; area agencies on aging;
11 Commonwealth Council on Aging.

12 A. The mission of the Department ~~for the Aging~~ shall be to improve the quality of life for older Virginians and to act as
13 a focal point among state agencies for research, policy analysis, long-range planning, and education on aging issues. ~~In this~~
14 ~~chapter, older Virginians means persons aged sixty or older.~~ The Department's policies and programs shall be designed to
15 enable older persons to be as independent and self-sufficient as possible. The Department shall promote local participation in
16 programs ~~for the aging older persons~~, evaluate and monitor the services provided for older Virginians and provide information
17 to the general public. In furtherance of this mission, the ~~Department's duties shall include, but not be restricted~~ Department
18 shall have, without limitation, the following duties to:

19 1. ~~To study~~ Study the economic and physical condition of the residents in the Commonwealth whose age qualifies
20 them for coverage under Public Law 89-73 or any law amendatory or supplemental thereto of the Congress of the United
21 States, ~~hereinafter referred to as the aging~~, and the employment, medical, educational, recreational and housing facilities
22 available to them, with the view of determining the needs and problems of such persons;

23 2. ~~To determine~~ Determine the services and facilities, private and governmental and state and local, provided for and
24 available to ~~the aging older persons~~ and to recommend to the appropriate ~~person or persons~~ such coordination of and
25 changes in such services and facilities as will make them of greater benefit to ~~the aging older persons~~ and more responsive
26 to their needs;

27 3. ~~To act~~ Act as the single state agency, under Public Law 89-73 or any law amendatory or supplemental thereto of
28 the Congress of the United States, and as the sole agency for administering or supervising the administration of such
29 as may be adopted in accordance with the provisions of such law or laws. ~~As such agency, the~~ The Department shall
30 authority to ~~may~~ prepare, submit and carry out state plans and shall be the agency primarily responsible for coordinating state
31 programs and activities related to the purposes of, or undertaken under, such plans or laws;

32 4. ~~With the approval of the Governor, to apply~~ Apply, with the approval of the Governor, for and expend such grants,
33 gifts or bequests from any source ~~as may that~~ becomes available in connection with its duties under this section, and is
34 ~~authorized to~~ may comply with such conditions and requirements as may be imposed in connection therewith;

35 5. ~~To hold such~~ Hold hearings and conduct ~~such~~ investigations ~~as are~~ necessary to pass upon applications for
36 approval of a project under the plans and laws set out in subdivision ~~(3) hereof~~ 3, and shall make ~~such~~ reports to the
37 Secretary of the United States Department of Health and Human Services as may be required;

38 6. ~~To designate~~ Designate area agencies on aging pursuant to Public Law 89-73 or any law amendatory or
39 supplemental thereto of the Congress of the United States and to ~~promulgate rules and adopt~~ regulations for the composition
40 and operation of such area agencies on aging;

41 7. ~~To provide~~ Provide information to consumers and their representatives concerning the recognized features of
42 special care units. Such information shall educate consumers and their representatives on how to choose special care and
43 may include brochures and electronic bulletin board notices;

44 8. ~~To provide~~ Provide staff support to the Commonwealth Council on Aging;

45 9. ~~To assist~~ Assist state, local, and nonprofit agencies, including, but not limited to, area agencies on aging, in
46 identifying grant and public-private partnership opportunities for improving services to elderly Virginians;

47 10. ~~To contract~~ Contract with a not-for-profit Virginia corporation granted tax-exempt status under § 501 (c) (3) of the
48 Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or
49 designated area agencies on aging for the administration of the ombudsman program. The Department may also contract
50 with such ~~entity or entities~~ for the administration of elder rights programs as authorized under Public Law 89-73, such as
51 insurance counseling and assistance, and to create an elder information/elder rights center; and

52 11. Serve as the focal point for the rights of older Virginians and their families by establishing, maintaining and
53 publicizing a toll-free number to provide resource and referral information, and to provide such other assistance and advice as
54 may be requested.

55 B. The governing body of any county, city or town may appropriate funds for support of area agencies on
56 designated pursuant to subdivision A, ~~6 hereof~~.

1 C. All agencies of the Commonwealth shall assist the Department in effectuating its functions in accordance with its
2 designation as the single state agency as required in subdivision A, 3-above.

3 D. As used in this chapter, "older Virginians" or "older persons" mean persons aged sixty years or older.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 2-1-373.02. Commonwealth Council on Aging; created; purpose; membership; terms; duties.~~

6 ~~A. There is hereby created in the executive branch the Commonwealth Council on Aging, hereinafter referred to as
7 the Council. The purpose of the Council shall be to promote an efficient, coordinated approach by state government to
8 meeting the needs of older Virginians. The Council shall be composed of persons selected from the Commonwealth at large
9 without regard to political affiliation but with due consideration of geographical representation. Appointees shall be selected
10 for their ability, and all appointments shall be of such nature as to aid the work of the Council and to inspire the highest
11 degree of cooperation and confidence.~~

12 ~~B. The Council shall consist of nineteen voting members appointed as follows: one member from each of the eleven
13 congressional districts of the Commonwealth appointed by the Governor subject to confirmation by a majority of each House
14 of the General Assembly at its next regular session; four at-large members appointed by the Speaker of the House of
15 Delegates; and four at-large members appointed by the Senate Committee on Privileges and Elections. The Council shall
16 also include the following nonvoting, ex officio members: the Commissioner of the Department for the Aging, the Director of
17 the Department of Medical Assistance Services, the Commissioner of Social Services and the Secretary of Health and
18 Human Resources, or their designees. For initial appointments made by the Governor, the terms shall be as follows: five
19 members shall serve four year terms, four members shall serve three year terms and two members shall serve two year
20 terms. For initial appointments made by the Speaker of the House of Delegates, two members shall be appointed for four
21 year terms and two members shall be appointed to two year terms. For the initial appointments by the Senate Committee on
22 Privileges and Elections, two members shall be appointed for four year terms and two members shall be appointed for two
23 year terms. Thereafter, all appointments shall be for four year terms.~~

24 ~~In making initial appointments, the Governor, the Speaker of the House, and the Senate Committee on Privileges
25 and Elections shall give due consideration to the appointment of members of the current Governor's Advisory Board on Aging.~~

26 ~~Appointments to fill vacancies shall be for the unexpired term. No person having served on the Council for two
27 consecutive terms shall be eligible for reappointment to the Council for two years thereafter.~~

28 ~~C. The Council shall elect a chairman and a vice chairman from among its members and shall appoint a secretary
29 and such other officers as it deems necessary and prescribe their duties and terms of office.~~

30 ~~D. The duties of the Council shall be as follows:~~

31 ~~1. Examine the needs of older Virginians and ways in which state government can most effectively and efficiently
32 assist in meeting these needs;~~

33 ~~2. Advise the Governor and General Assembly on aging issues and aging policy for the Commonwealth;~~

34 ~~3. Advise the Governor on any proposed regulations deemed by the Director of the Department of Planning and
35 Budget to have a substantial and distinct impact on older Virginians. Such advice shall be provided in addition to other
36 regulatory reviews required by the Administrative Process Act;~~

37 ~~4. Advocate and develop the Commonwealth's planning for meeting the needs of the growing number of older
38 Virginians; and~~

39 ~~5. Advise the Governor and General Assembly regarding the activities of the Department.~~

40 ~~E. The Council is authorized to apply for and expend such grants, gifts, or bequests from any source as may
41 become available in connection with its duties under this section, and is authorized to comply with such conditions and
42 requirements as may be imposed in connection therewith.~~

43 **DRAFTING NOTE:** Technical corrections. This section has been moved to Part D in Subtitle I - State Authorities, Boards,
44 Commissions, etc., under the heading of "Councils".

45 ~~§ 2-1-373.3 2.2-704. Responsibility of Department for complaints regarding long-term care services.~~

46 ~~The Department for the Aging, or its designee, shall investigate complaints regarding community services which that
47 are designed to provide long-term care to the elderly older persons and are rendered by the Department of Health, the
48 Department of Social Services, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the
49 area agencies on aging or any private nonprofit or proprietary agency.~~

50 ~~Nothing in this section shall affect the services provided by local departments of welfare or social services pursuant
51 to § 63.1-55.1.~~

52 **DRAFTING NOTE:** Technical corrections only.

53 ~~§ 2-1-373.4 2.2-705. Access to residents, facilities and patients' records by Office of State Long-Term Care
54 Ombudsman.~~

1 The entity designated by the Department ~~for the Aging~~ to operate the programs of the Office of the State Long-Term
2 Care Ombudsman pursuant to the Older Americans Act, Public Law 100-175, shall, in the investigation of complaints referred
3 to the program, have the same access ~~to (i) to residents, facilities and patients' records of licensed adult care residences as is~~
4 ~~provided for in accordance with § 63.1-177 and (ii) to patients, facilities and patients' records of nursing facilities or nursing~~
5 ~~homes as is provided for in accordance with § 32.1-25, and shall have access to the patients, residents and patients' records~~
6 ~~of state hospitals operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.~~
7 However, if a patient is unable to consent to the review of his medical and social records and has no legal guardian, such
8 representatives shall have appropriate access to such records in accordance with ~~the provisions above this section.~~
9 Notwithstanding the provisions of § 32.1-125.1, the entity designated by the Department ~~for the Aging~~ to operate the
10 programs of the Office of the State Long-Term Care Ombudsman shall have access to nursing facilities and nursing homes
11 and state hospitals ~~as herein provided in accordance with this section.~~ Access to residents, facilities and patients' records
12 shall be during normal working hours except in emergency situations.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2.1-373.2~~ 2.2-706. Confidentiality of records of Office of the State Long-Term Care Ombudsman.

15 All documentary and other evidence received or maintained by the Department ~~for the Aging~~ or its agents in
16 connection with specific complaints or investigations under any program of the Office of the State Long-Term Care
17 Ombudsman conducted by or under the Commissioner of that Department shall be confidential and not subject to the Virginia
18 Freedom of Information Act (~~§ 2.1-340- 2.2-3700 et seq.~~), except that such information may be released on a confidential
19 basis in compliance with regulations ~~promulgated~~ adopted by the Department and consistent with provisions of ~~subsection (d)~~
20 ~~of § 2.1-372 subdivision 4 of § 2.2-601 and with the requirements of the Older Americans Act (42 U.S.C. § 3001 et seq.).~~

21 The Commissioner of the Department ~~for the Aging~~ shall release information concerning completed investigations of
22 complaints made under the programs of the Office of the State Long-Term Care Ombudsman, but shall in no event release
23 the identity of any complainant or resident of a long-term care facility unless (i) ~~such the~~ complainant or resident or his legal
24 representative consents in writing to ~~such~~ disclosure, or (ii) ~~such~~ disclosure is required by court order. The Commissioner of
25 the Department ~~for the Aging~~ shall establish procedures to notify long-term care facilities of the nature of complaints and ~~the~~
26 their findings thereof.

27 **DRAFTING NOTE:** Technical corrections only.

28 ~~§ 2.1-373.2-4~~ 2.2-707. Protection for representatives of the Office of the State Long-Term Care Ombudsman.

29 Any designated representative of the Office of the State Long-Term Care Ombudsman who, in good faith with
30 reasonable cause and without malice, performs the official duties of ombudsman, including acting to report, investigate or
31 cause any investigation to be made regarding a long-term care provider, shall be immune from any civil liability that might
32 otherwise be incurred or imposed as the result of the making of ~~such the~~ report or investigation.

33 **DRAFTING NOTE:** Technical corrections only.

34 ~~§ 2.1-373.7~~ 2.2-708. Coordination of local long-term care services.

35 The governing body of each county or city, or a combination thereof, shall designate a lead agency and member
36 agencies to accomplish the coordination of local long-term care services. The agencies shall establish a long-term care
37 coordination committee composed of, but not limited to, representatives of each agency. The coordination committee shall
38 guide the coordination and administration of public long-term care services in the locality ~~or localities~~. The membership of the
39 coordination committee shall be comprised of, but not limited to, representatives of the local department of public health, the
40 local department of social services, the community services board or community mental health clinic, the area agency on
41 aging and the local nursing home pre-admission screening team. ~~By July 1, 1983, a A~~ plan shall be implemented ~~which that~~
42 assures ensures the cost-effective utilization of all funds available for long-term care services in the locality. Localities are
43 encouraged to provide ~~a service or~~ services within each category of service in the continuum and to allow one person to
44 deliver multiple services, when possible.

45 **DRAFTING NOTE:** Technical corrections only.

46 ~~§ 2.1-373.04~~ 2.2-709. Contracts between area agency and Campbell County.

47 Notwithstanding any contrary provision of law, Campbell County may, under contract with the Area Agency on Aging
48 designated to serve Campbell County, provide directly any and all services specified in Public Law 89-73, as amended.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§ 2.1-373.9~~ 2.2-710. Alzheimer's and Related Diseases Research Award Fund.

51 There is ~~hereby~~ established a fund to be known as the Alzheimer's and Related Diseases Research Award Fund.
52 ~~This The~~ Fund shall be administered by the Virginia Center on Aging and the awards shall be made through an Awards
53 ~~Committee awards committee~~ consisting of representatives from the scientific and medical community and the general public.

The ~~Awards-awards~~ shall be given annually to scientists in Virginia in order to support research into the causes of Alzheimer's and related diseases, methods of treatment, ways that families can cope with the stresses of the disease, and the impact of the disease on the citizens of the Commonwealth.

DRAFTING NOTE: Technical corrections only.

Article 2.

Virginia Public Guardian and Conservator Program.

~~§ 2.1-373.10, 2.2-711.~~ Policy statement; Virginia Public Guardian and Conservator Program established; definitions.

A. The General Assembly declares that it is the policy of the Commonwealth to ensure that persons who cannot adequately care for themselves because of incapacity (in this article, also referred to as "clients") are able to meet essential requirements for physical and emotional health and management of financial resources with the assistance of a guardian or conservator, as appropriate, in circumstances where (i) the incapacitated person's financial resources are insufficient to fully compensate a private guardian or conservator and pay court costs and fees associated with the appointment proceeding and (ii) there is no other proper and suitable person willing and able to serve in such capacity. In order to ensure that the protection and assistance of a guardian or conservator are available to all incapacitated persons in the Commonwealth, there is ~~hereby~~ established the statewide Virginia Public Guardian and Conservator Program (~~hereinafter~~, "the Program") within the Department for the Aging to (i) facilitate the creation of local or regional programs to provide services as public guardians or conservators and (ii) fund, coordinate, administer and manage such programs.

B. The definitions found in § 37.1-134.6 shall apply to this article.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 2.1-373.10 and subsection B is § 2.1-373.11.

~~§ 2.1-373.11. Definitions.~~

~~The definitions found in § 37.1-134.6 shall apply to this article.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-711.

~~§ 2.1-373.12, 2.2-712.~~ Powers and duties of the Department with respect to public guardian and conservator program.

A. The Department shall fund from appropriations received for such purpose a statewide system of local or regional public guardian and conservator programs.

B. The Department shall:

1. Make and enter into all contracts necessary or incidental to the performance of its duties and in furtherance of the purposes as specified in this article in conformance with the Public Procurement Act (~~§ 44-35-2.2-4300~~ et seq.).

2. Contract with local or regional public or private entities to provide services as guardians and conservators operating as local or regional Virginia Public Guardian and Conservator Programs in those cases in which a court, pursuant to § 37.1-134.14:1, determines that a person is eligible to have a public guardian or conservator appointed.

3. ~~Promulgate~~Adopt reasonable regulations in accordance with the Administrative Process Act (~~§ 0-6.14:1-2.2-4000~~ et seq.) as appropriate to implement, administer and manage the state and local or regional programs authorized by this article, including, but not limited to the adoption of: ~~adoption of minimum~~

a. Minimum training and experience requirements for volunteers and professional staff of the local and regional programs; ~~adoption of an~~

b. An ideal range of staff to client ratios for the programs; adoption of procedures to be followed whenever a local or regional program falls below or exceeds the ideal range of staff to client ratios, which shall include, but not be limited to, procedures to ensure that services shall continue to be available to those in need and that appropriate notice is given to the courts, sheriffs, where appropriate, and the Department; and ~~adoption of procedures~~

c. Procedures governing disqualification of any program falling below or exceeding the ideal range of staff to client ratios, which shall include a process for evaluating any program ~~which that~~ has exceeded the ratio to assess the effects falling below or exceeding the ideal range of ratios has had or is having upon the program and upon the incapacitated persons served by the program.

The regulations shall require that ~~such~~ evaluations occur no less frequently than every six months and shall continue until the staff to client ratio returns to within the ideal range.

4. Establish procedures and administrative guidelines to ensure the separation of local or regional Virginia Public Guardian and Conservator Programs from any other guardian or conservator program operated by the entity with whom the Department contracts, specifically addressing the need for ~~such~~ separation in programs that may be fee-generating.

5. Establish record-keeping and accounting procedures to ensure that each local or regional program (i) maintains confidential, accurate and up-to-date records of the personal and property matters over which it has control for each

1 incapacitated person for whom it is appointed guardian or conservator and (ii) files with the Department an account of all
2 public and private funds received.

3 6. Establish criteria for the conduct of and filing with the Department and as otherwise required by law: values his
4 surveys, annual decisional accounting and assessment reports, the care plan designed for the incapacitated person and such
5 other information as the Department may by regulation require.

6 7. Establish criteria to be used by the local and regional programs in setting priorities with regard to services to be
7 provided.

8 8. Take such other actions as are necessary to ensure coordinated services and a reasonable review of all local and
9 regional programs.

10 9. Maintain statistical data on the programs and report to the General Assembly on or before January 1 of each year
11 as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents
12 regarding the status of the Virginia Public Guardian and Conservator Program and the developing trends with regard to the
13 need for guardians, conservators and other types of surrogate decision-making services. In addition, the Department shall
14 enter into a contract with an appropriate research entity with expertise in gerontology, disabilities and public administration to
15 conduct an evaluation of local public guardian and conservator programs from funds specifically allocated for this purpose,
16 and the evaluator shall provide a report with recommendations to the Department and to the Public Guardian and
17 Conservator Advisory Board by December 1, 2003. Trends identified in the report shall be presented to the General
18 Assembly. The Department shall request such a report from an appropriate research entity every four years, provided the
19 General Assembly appropriates funds for that purpose.

20 10. Recommend appropriate legislative or executive actions.

21 C. Nothing in this article shall prohibit the Department from contracting pursuant to subdivision B. 2. of this section
22 with an entity which that may also provide privately funded surrogate decision-making services, including guardian and
23 conservator services funded with fees generated by the estates of incapacitated persons, provided such private programs are
24 administered by the contracting entity entirely separately from the local or regional Virginia Public Guardian and Conservator
25 Programs, in conformity with regulations established by the Department in that respect.

26 D. In accordance with the Public Procurement Act (§ 44-35-2.2-4300 et seq.) and recommendations of the Public
27 Guardian and Conservator Advisory Board, the Department may contract with a not-for-profit private entity which that does
28 not provide services to incapacitated persons as guardian or conservator to administer the program, and, if it does, the term
29 "Department" when used in this article shall refer to the contract administrator.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2.1-373.13. Public Guardian and Conservator Advisory Board created; duties; membership; terms.~~

32 ~~There is hereby created the Public Guardian and Conservator Advisory Board (the "Board") which shall report to and~~
33 ~~advise the Commissioner on the means for effectuating the purposes of this article and shall assist in the coordination and~~
34 ~~management of the local and regional programs appointed to act as public guardians and conservators pursuant to Chapter 4~~
35 ~~(§ 37.1-128.01 et seq.) of Title 37.1. The Board shall provide advice and counsel on the provision of high quality guardianship~~
36 ~~service and avoidance of conflicts of interest, promote the mobilization of activities and resources of public and private sector~~
37 ~~entities to effectuate the purposes of this article, and make recommendations regarding appropriate legislative and executive~~
38 ~~actions, including, but not limited to, recommendations governing alternatives for local programs to follow upon repeal of the~~
39 ~~authority granted to the courts pursuant to § 37.1-134.10 to appoint the sheriff as guardian or conservator when the maximum~~
40 ~~staff to client ratio of the local program is met or exceeded.~~

41 ~~The Board shall consist of no more than fifteen members who shall be appointed by the Governor as follows: one~~
42 ~~representative of the Virginia Guardianship Association; one representative of the Virginia Area Agencies on Aging, one~~
43 ~~representative of the Virginia State Bar, one active or retired circuit court judge upon recommendation of the Chief Justice of~~
44 ~~the Supreme Court, one representative of the Association of Retarded Citizens, one representative of the Virginia Alliance for~~
45 ~~the Mentally Ill, one representative of the Virginia League of Social Service Executives, one representative of the Association~~
46 ~~of Community Service Boards, the Commissioner of the Department of Social Services or his designee, the Commissioner of~~
47 ~~the Department of Mental Health, Mental Retardation and Substance Abuse Services or his designee, the Director of the~~
48 ~~Virginia Department for the Rights of Virginians with Disabilities or his designee, and one person who is a member of the~~
49 ~~Commonwealth Council on Aging and such other individuals who may be qualified to assist in the duties of the Board.~~

50 ~~The Commissioners of the Departments of Social Services and Mental Health, Mental Retardation and Substance~~
51 ~~Abuse Services or their designees, the Director of the Virginia Department for the Rights of Virginians with Disabilities or his~~
52 ~~designee, and the representative of the Commonwealth Council on Aging, shall serve terms coincident with their terms of~~
53 ~~office or in the case of designees, the term of the Commissioner or Director. Of the other members of the Board, five of the~~
54 ~~appointees shall serve for four year terms and the remainder shall serve for three year terms. No member shall serve more~~
55 ~~than two successive terms. A vacancy occurring other than by expiration of term shall be filled for the unexpired term. Each~~
56 ~~year, the Board shall elect a chairman and a vice chairman from among its members. Five members of the Board shall~~
57 ~~constitute a quorum. Members shall receive no compensation for their services but shall be reimbursed for all reasonable~~
58 ~~necessary expenses incurred in the discharge of their duties as members of the Board.~~

1 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle 1 - State Authorities, Boards, Commissions, etc., under
2 the heading of "Boards".

3 ~~§ 2-1-373-14~~ 2.2-713. Minimum requirements for local programs; authority.

4 Every local or regional program with which the Department contracts to provide services as a public guardian or
5 conservator shall (i) furnish bond with corporate surety in an amount deemed sufficient by the Department to afford adequate
6 financial protection to the maximum number of incapacitated persons to be served by the program; (ii) have in place a multi-
7 disciplinary panel to (a) screen cases for the purpose of ensuring that appointment of a guardian or conservator is appropriate
8 under the circumstances and is the least restrictive alternative available to assist the incapacitated person and (b) continually
9 review cases being handled by the program as required by the Department; (iii) accept only appointments as guardian or
10 conservator ~~which that~~ generate no fee or would generate a minimal fee as defined by regulation payable from a public
11 source of funds and not from the estate of the incapacitated person; (iv) have a direct service staff to client ratio ~~which that~~ is
12 consistent with that specified by regulation of the Department; and (v) develop a plan, in consultation with the local circuit
13 court and sheriffs where appropriate, to provide advance notice to the court when the program falls below or exceeds the
14 ideal range of staff to client ratios in order to assure continuity of services. Volunteers shall not be counted for purposes of
15 ascertaining compliance with the staff to client ratio specified by the Department.

16 A local or regional program ~~which that~~ exceeds the specified staff to client ratio ~~is shall not be~~ disqualified from
17 serving as a guardian or conservator except as provided by regulation or if the court or the Department finds that there is an
18 immediate threat to the person or property of any incapacitated person or that exceeding the specified ratio is having or will
19 have a material and adverse effect on the ability of the program to properly serve all of the incapacitated persons it has been
20 designated to serve.

21 A local or regional program appointed as a guardian or conservator shall have all the powers and duties specified in
22 Chapter 4 (§ 37.1-128.01 et seq.) of Title 37.1, except as otherwise specifically limited by the court. In addition, a public
23 guardian or conservator shall have a continuing duty to seek a proper and suitable person who is willing and able to serve as
24 guardian or conservator for the incapacitated person. A public guardian shall not have authority to admit an incapacitated
25 person to a psychiatric hospital or mental health facility without a civil commitment proceeding, or to approve or authorize a
26 sterilization procedure except when specific authority has been given pursuant to a proceeding in the circuit court. A public
27 guardian may authorize mental health treatment, including the administration of psychotropic medication, unless the
28 appointing court specifically provides otherwise.

29 A local or regional program appointed as a guardian or conservator may delegate the powers, duties and
30 responsibilities to individual volunteers or professional staff as authorized in the contract with the Department.

31 In addition to funds received from the Department, a local or regional program may accept private funds solely for
32 the purposes of providing public education, supplemental services for incapacitated persons and support services for private
33 guardians and conservators, consistent with the purposes of this article.

34 **DRAFTING NOTE:** Technical corrections only.

35 Article 3.

36 Virginia Respite Care Grant Program.

37 ~~§ 2-1-373-15~~ 2.2-714. Definitions.

38 As used in this article, unless the context requires otherwise:

39 "Adult day care services" means the provision of supplementary care and protection during a part of the day only to
40 aged, infirm, or disabled adults. Such services may be in or away from the residence of the aged, infirm, or disabled adult.

41 "Community respite care organization" means a local subdivision of the Commonwealth, a combination of political
42 subdivisions, a separate public agency or a private nonprofit agency exempt under § 501 (c) (3) of the Internal Revenue
43 Code, which has the authority under its applicable charter, laws or articles of organization to receive funds to support respite
44 care activities.

45 "Department" means the Department for the Aging.

46 "Fund" means the Virginia Respite Care Grant Fund established by ~~§ 2-1-373-17~~ 2.2-716.

47 "Respite care" means the provision of supplementary care and protection for aged, infirm, or disabled adults. Respite
48 care includes, but is not limited to, adult day care services.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§ 2-1-373-16~~ 2.2-715. Respite Care Grant Program established.

51 Beginning January 1, 2001, any community respite care organization shall be eligible to receive an annual respite
52 care grant in the amount of up to \$100,000 for the development, expansion, or start-up operation of adult day care services or
53 other services that provide respite care to aged, infirm, or disabled adults. The grants under this article shall be paid from the
54 Fund, as provided in this article, to the community respite care organization. As a condition of a grant, money appropriated

1 from such fund shall be matched by community respite care organization funds (in-kind or cash) earmarked for the
2 development or expansion of respite care services. The total amount of grants to be paid under this chapter for any year shall
3 not exceed the amount appropriated by the General Assembly to the Fund for payment to community respite care
4 organizations for such year. Only one grant shall be allowed annually for each community respite care organization under the
5 provisions of this section.

6 **DRAFTING NOTE:** Technical corrections only.

7 ~~§ 2.1-373.47~~ 2.2-716. Virginia Respite Care Grant Fund established.

8 There is hereby established a special fund in the state treasury to be known as the Virginia Respite Care Grant
9 Fund, which shall be administered by the Department. The Fund shall include such moneys as may be appropriated by the
10 General Assembly from time to time and designated for the Fund. The Fund shall be used solely for the payment of grants to
11 community respite care organizations pursuant to this article. Unallocated moneys in the Fund in any year shall remain in the
12 Fund and be available for allocation for grants under this article in ensuing fiscal years.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2.1-373.48~~ 2.2-717. Grant application process; administration.

15 A. Grant applications shall be submitted by community respite care organizations to the Department between
16 December 1 and March 1. Failure to meet the application deadline shall render the community respite care organization
17 ineligible to receive a grant during such calendar year. For filings by mail, the postmark cancellation shall govern the date of
18 the filing determination.

19 B. Applications for grants shall include (i) identification of the community respite care organization, (ii) identification
20 of the matching funds, and (iii) such other relevant information as the Department may require. As a condition of receipt of a
21 grant, a community respite care organization shall agree to make available to the Department for inspection, upon request, all
22 relevant and applicable documents to determine whether the community respite care organization meets the requirements for
23 the receipt of grants as set forth in this article, and to consent to the use by the Department, for official purposes, of all
24 relevant information relating to eligibility for the requested grant.

25 C. The Department shall review applications for grants and determine the amount of the grant to be allocated to
26 each community respite care organization in accordance with the Virginia Public Procurement Act (~~§ 11-35-2.2-4300~~ et seq.).

27 D. A community respite care organization shall have no claim against the Commonwealth with respect to any grant
28 authorized by this article.

29 E. The Department shall certify to the Comptroller the amount of grant to be allocated to eligible applicants.
30 Payments shall be made by check issued by the State Treasurer on warrant of the Comptroller. The Comptroller shall not
31 draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and
32 restrictions on expenditures in the appropriation act.

33 F. Actions of the Department relating to the review, allocation and awarding of grants shall be exempt from the
34 provisions of the Administrative Process Act (~~§ 9-6.14:4-2.2-4000~~ et seq.) pursuant to subdivision B, 4, of ~~§ 9-6.14:4.4~~ of §
35 2.2-4006. Decisions of the Department shall be final and not subject to review or appeal.

36 G. The Department may examine the records, books, and other applicable documents to determine whether the
37 community respite care organization has satisfied the requirements for grants as set forth in this section.

38 **DRAFTING NOTE:** Technical corrections only.

39 CHAPTER 8.

40 DEPARTMENT OF ACCOUNTS.

41 Article 1.

42 General Provisions.

43 ~~§ 2.1-492~~ 2.2-800. ~~Appointment Department of Accounts created; and term appointment of Comptroller; oath.~~

44 A. There is created a Department of Accounts (the "Department"). The Director of the Department of Accounts shall
45 be known as the Comptroller. He shall be appointed by the Governor, subject to confirmation by the General Assembly if in
46 session when such appointment is made, and if not in session, then at its next succeeding session. He shall hold office to
47 serve at the his pleasure of the Governor for a term coincident with that of the Governor making the appointment, or until his
48 successor shall be appointed and qualified.

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

51 C. The Comptroller, before entering upon the discharge of his duties, shall take an oath that he will faithfully and
52 honestly execute the duties of his office.

DRAFTING NOTE: Technical corrections only. Subsection B was added to standardize, among the various agencies in this title, language relating to the Director's exercise of powers/duties conferred by law, etc. Subsection A has been amended to comply with existing § 2.1-41.2, which requires that all agency heads appointed by the Governor shall be subject to confirmation by the General Assembly, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor.

~~§ 2.1-193. Department of Accounts and Purchases, etc., abolished; powers and duties transferred to Comptroller and Department of Accounts.~~

~~The Department of Accounts and Purchases and the office of the Director thereof, heretofore existing, are hereby abolished and all the powers and duties heretofore conferred or imposed upon said Department and the Director are hereby transferred to and shall hereafter be exercised by the Comptroller and the Department of Accounts. Whenever the words "Division of Accounts and Control" or words of like import appear in this Code they shall be construed to mean and refer to the Department of Accounts. Wherever the words "Director of the Division of Accounts and Control" or words of like import appear in this Code they shall be construed to mean and refer to the Comptroller.~~

DRAFTING NOTE: This section has been deleted as obsolete.

~~§ 2.1-194. Oath of Comptroller.~~

~~The Comptroller, before entering upon the discharge of his duties, shall take an oath that he will faithfully and honestly execute the duties of his office during his continuance therein.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-800.

~~§ 2.1-173~~ 2.2-801. Comptroller and State Treasurer to appoint administrative assistants, etc.

~~A. The Comptroller and the State Treasurer shall appoint, in their respective offices, the administrative assistants, deputies and clerks allowed by law.~~

B. The Comptroller shall appoint administrative assistants, who shall have authority to act for and perform the duties of the Comptroller under his direction, supervision and control, and in the absence of the Comptroller to perform all the duties of the office. Of such absence, the others shall be informed. When the absence of the Comptroller is to be for more than five days at a time, notice thereof shall be given to the Governor.

C. In the event the administrative assistant is incapacitated from performing his duties during the absence of the Comptroller, the Governor shall designate some other person in the office to act during the absence of the Comptroller, and in the event of the removal, resignation or death of the Comptroller, the administrative assistant shall perform all the duties of the office until the vacancy is filled in the manner prescribed by law.

D. Such officers and their sureties shall be liable for any default or breach of duty of their administrative assistants respectively during their absence.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 2.1-173, subsection B is § 2.1-174, subsection C is § 2.1-175, and subsection D is § 2.1-176. References to the State Treasurer have been deleted here since this proposed section deals with the Comptroller. The same authority is given to the State Treasurer in a corresponding section set out in the chapter dealing with the State Treasurer to ensure that this authority is maintained. In addition, references to "clerks" have been changed to "administrative assistants" on the recommendation of the Comptroller.

~~§ 2.1-174. When administrative assistants to perform duties of chief; notifying Governor of chief's absence.~~

~~The Comptroller and the State Treasurer shall appoint for their respective offices administrative assistants, who shall have authority to act for and perform the duties of the chief in such office under his direction, supervision and control, and in the absence of the chief to perform all the duties of the office. Of such absence, the others shall be informed. When the absence of the chief is to be for more than five days at a time, notice thereof shall be given to the Governor.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-801.

~~§ 2.1-175. When Governor to designate administrative assistant; temporary vacancy filled by administrative assistant.~~

~~In the event the administrative assistant is incapacitated from performing his duties during the absence of the chief, the Governor shall designate some other clerk in the office to act during the absence of the chief, and in the event of the removal, resignation or death of the chief, the administrative assistant shall perform all the duties of the office until the vacancy is filled in the manner prescribed by law.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection C in proposed § 2.2-801.

~~§ 2.1-176. Officers and sureties liable for acts of administrative assistants.~~

1 ~~Such officers and their sureties shall be liable for any default or breach of duty of their administrative assistants~~
2 ~~respectively during their absence.~~

3 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 2.2-801.

4 ~~§ 2.1-405~~ 2.2-802. General accounting and clearance through Comptroller.

5 In the Department of Accounts the Comptroller shall maintain a complete system of general accounting to
6 comprehend the financial transactions of every state department, division, officer, board, commission, institution or other
7 agency owned or controlled by the Commonwealth, whether at the seat of government or not. All transactions in public funds
8 shall clear through the Comptroller's office.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 2.1-406.4~~ 2.2-803. Financial accounting and control.

11 A. Unified financial accounting and control shall be established through the departments and agencies of the
12 Commonwealth, in the manner prescribed in this chapter.

13 The Comptroller shall prescribe what accounts shall be kept by each state agency in addition to the system of
14 general accounting maintained in the Comptroller's office. In prescribing what accounts shall be kept by each state agency,
15 the Comptroller shall take care that there shall be no unnecessary duplication.

16 B. The Comptroller shall direct the development of a modern, effective and uniform system of bookkeeping and
17 accounting, ~~comprehending to include~~ (i) an efficient system of checks and balances between the officers at the seat of the
18 government entrusted with the collection and receipt, custody and disbursement of the revenues of the Commonwealth; and
19 (ii) a system of accounting, applicable to all state officers, departments, boards, commissions, agencies, and penal,
20 educational and eleemosynary institutions maintained in whole or in part by the Commonwealth, which shall be suitable to
21 their respective needs, considering their relation to each other and their relation to subordinate officers and officials. All
22 systems so developed shall require the approval and certification of the Auditor of Public Accounts that they are adequate for
23 purposes of audit and financial control.

24 As to the operation of merchandising activities, or other centralized support services provided by one state agency to
25 other state agencies for which charges are made, the system of accounting ~~therefor~~ shall be designed to reflect all charges
26 properly allocable ~~thereto to the end~~ so that the net profit or loss therefrom shall be reflected. In the furtherance of this
27 objective the Joint Legislative Audit and Review Commission may direct the Comptroller to establish under such terms
28 conditions as they may determine ~~working capital~~ internal service fund accounts on his books and record therein the rec
29 and expenditures of these several functions. The Comptroller shall provide the agencies responsible for the operation
30 these functions with working capital advances with which to finance the operations pursuant to appropriations made by law.
31 The Joint Legislative Audit and Review Commission may direct the Comptroller to transfer excess fund balances to the
32 general fund or to remove from his books internal service fund accounts ~~which that~~ are no longer considered appropriate and
33 record the necessary transfer of funds.

34 Unit prices of services rendered by internal service funds shall be fixed so that all costs properly allocable to
35 providing the service shall be fully recoverable.

36 C. The Comptroller shall ~~file with the Secretary of the Commonwealth a statement and maintain a full~~ explanation of
37 all systems of accounting devised and adopted in furtherance of this section, but no copyright system shall be adopted ~~which~~
38 ~~that~~ shall entail additional cost upon the Commonwealth by reason of such copyright. ~~Such~~ The systems of accounting shall
39 be communicated by the Comptroller to the officials affected thereby, and he shall as soon as possible instruct the officials as
40 to ~~such the~~ systems of accounting.

41 D. Should any of the state offices, departments, boards, commissions, agencies, or institutions refuse or neglect to
42 adopt ~~such the~~ systems of accounting ~~as developed by the Comptroller may devise, adopt, and promulgate~~, then upon suit of
43 the Attorney General a writ of mandamus will lie to the Supreme Court to compel ~~such the~~ adoption, ~~and it~~ shall be the duty
44 of the Attorney General to ~~forthwith~~ promptly institute such suit in any such case.

45 **DRAFTING NOTE:** Technical corrections only. The term "working capital fund" has been replace with "internal service fund"
46 on the recommendation of the Comptroller.

47 ~~§ 2.1-406.2~~ 2.2-804. Recovery of certain improper payments to state employees.

48 If any officer or employee of the Commonwealth, whether or not exempt from the provisions of Chapter 40 (~~§ 2.1-440~~
49 ~~et seq.~~) 29 (§ 2.2-2900 et seq.) of this title, contrary to any applicable statute, regulation or written policy of the
50 Commonwealth, obtains or authorizes any other officer or employee to obtain any compensation or other payment to which
51 an employee is not entitled, and upon the written request of his employer, fails or refuses to return or reimburse such
52 compensation or payment, then both the employee who received the payment to which he was not entitled and the employee
53 who authorized the payment shall be liable for repayment to the employer. Liability ~~will~~ shall not attach unless such
54 authorization was given with actual or constructive knowledge that the recipient employee was not entitled to such
55 compensation or payment.

1 As long as he remains an officer or employee of the Commonwealth, and liability is admitted, his employer may
2 recover ~~such the~~ compensation or payment from any compensation or other payments to which the officer or employee is
3 entitled as an administrative offset pursuant to ~~§ 2-1-733 2.2-4806~~. However, ~~such the~~ offset shall not exceed the amount
4 allowed pursuant to § 8.01-512.3. If ~~such the~~ officer or employee leaves state service, liability is disputed or recovery cannot
5 be accomplished, the employer may request the Attorney General to bring an action for restitution pursuant to this section,
6 and the court may award the prevailing party costs and reasonable attorneys' fees.

7 The provisions of this section shall not apply to good faith disbursements made to beneficiaries of the Virginia
8 Retirement System.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 2-1-197~~ 2.2-805. Fiscal year.

11 The fiscal year shall commence on the first day of July and end on the thirtieth day of June.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2-1-198~~ 2.2-806. Reports and payments by city and county treasurers, and clerks of court; deposits of state
14 income tax payments.

15 A. All county and city treasurers receiving state income tax payments, whether from taxpayers or from the
16 commissioner of the revenue, shall deposit ~~such the~~ payments, within one banking day of receipt, into an account of the state
17 treasury. ~~Such The~~ treasurers shall maintain a record of the date on which ~~such the~~ payments are received and ~~shall also~~
18 ~~record~~ the date on which ~~such the~~ payments are deposited into the state treasury. The Auditor of Public Accounts shall either
19 prescribe or approve the treasurer's record-keeping system and shall audit such records as provided for in Chapter 13 (~~§ 2-1-~~
20 ~~153 et seq.~~) 14 (§ 30-130 et seq.) of this title Title 30. Reporting of ~~such the~~ deposits shall be in accordance with subsection B
21 hereof.

22 B. All county and city treasurers and clerks of courts receiving state moneys shall deposit promptly all state moneys
23 and, in the manner directed by the State Treasurer, of Virginia, shall transfer state moneys into an account of the state
24 treasury twice each week and submit a report of state moneys being transferred. However, except for state income tax
25 payments ~~which that~~ shall be controlled by subsection A ~~above~~, state moneys received amounting to less than \$5,000 may be
26 transferred into an account of the state treasury once each week.

27 **DRAFTING NOTE:** Technical corrections only.

28 ~~§ 2-1-199~~ 2.2-807. Monthly reports of state departments, divisions, etc., receiving public funds.

29 Every state department, division, officer, board, commission, institution or other agency owned or controlled by the
30 Commonwealth, whether at the seat of government or not, including county and city treasurers and clerks of courts, collecting
31 or receiving public funds, or moneys from any source whatever, belonging to or for the use of the Commonwealth, or for the
32 use of any state agency, and paying the same to the State Treasurer, or depositing the same to his credit in pursuance of
33 law, shall, on or before the tenth day of each month, or oftener if so directed by the Comptroller, report to the Comptroller in
34 such manner as he may direct, the amount collected or received and paid into the state treasury for the preceding calendar
35 month or other period designated by the Comptroller, ~~such The~~ report ~~to shall~~ show also the dates of payments to or deposits
36 to the credit of the State Treasurer.

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 2-1-200~~ 2.2-808. Collection of delinquent taxes.

39 Whenever, by any section of this Code, the Comptroller is required or is authorized to collect any delinquent taxes,
40 he shall refer the matter to the Tax Commissioner, who shall at once proceed to collect the same and may employ such legal
41 process as may be necessary for that purpose, ~~and when~~ When so collected the Tax Commissioner shall pay the same into
42 the state treasury.

43 **DRAFTING NOTE:** Technical corrections only.

44 ~~§ 2-1-202~~ 2.2-809. When accounts on Comptroller's books to be balanced; general ledger of accounts.

45 All unsettled accounts on the books of the Comptroller shall be balanced on the last day of each fiscal year, and the
46 balances brought forward on the first day of the new fiscal year. For this purpose there shall be a general ledger of accounts,
47 which shall be ~~se-kept as-~~ kept to show the balances due to or from the Commonwealth.

48 **DRAFTING NOTE:** Technical corrections only.

49 ~~§ 2-1-203. Comptroller and State Treasurer to compare their books.~~

1 On the last day of each month of the fiscal year, the Comptroller shall compare the books of his office with those in
2 the State Treasurer's, and prepare a reconciliation detailing the balance per each office, the amount of money in the state
3 treasury, and the nature of all reconciling items.

4 **DRAFTING NOTE:** Technical corrections. This section has been deleted at the recommendation of the Comptroller because
5 in actual practice these reconciliations are done daily.

6 ~~§-2.1-204~~ 2.2-810. Judges and clerks to certify to Supreme Court lists of all allowances made by courts.

7 The judge of every court of ~~this the~~ Commonwealth making an allowance for the payment of any sum out of the state
8 treasury shall certify to the Supreme Court a list of all allowances at least monthly ~~and~~ the date of the making ~~and the~~
9 amount of such allowance, ~~the amount thereof,~~ and to whom made; ~~and a like~~ A certificate of all allowances made by such
10 court shall be made up by the clerk of ~~such the~~ court and forwarded to the Supreme Court. The form of ~~such the~~ certificate
11 shall be prescribed by the Supreme Court, and it shall be made on blanks ~~which shall be prepared by them and furnished the~~
12 judges and clerks of the several courts of the Commonwealth. The Comptroller shall not draw any warrant on the State
13 Treasurer in satisfaction of any allowance made by any court of the Commonwealth until the Supreme Court ~~shall have~~ has
14 received notification of the allowance by the court of ~~such the~~ claim and approved ~~such the~~ allowance for payment.

15 **DRAFTING NOTE:** Technical corrections only.

16 ~~§-2.1-205~~ 2.2-811. Cancellation of state bonds received in settlement of claims.

17 All bonds of ~~this the~~ Commonwealth ~~which that~~ are received by the Comptroller in the settlement of claims of the
18 Commonwealth against the sureties of treasurers, sheriffs, or other officers, or in settlement of any other claim, shall be
19 turned over by him to the Treasury Board, who shall cancel the ~~same~~ bonds according to law.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§-2.1-206~~ 2.2-812. What Comptroller may do with old books and papers.

22 The Comptroller may, ~~at his discretion,~~ dispense with all noncurrent books, papers, invoices, financial documents,
23 and similar papers belonging to his office in a manner prescribed by the Virginia Public Records Act (§ 42.1-76 et seq.) in
24 coordination with the needs of the Auditor of Public Accounts.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§-2.1-207~~ 2.2-813. Annual report of Comptroller to Governor.

27 The Comptroller shall make a preliminary annual report to the Governor on or before August 15. The Governor shall
28 submit the preliminary report to the General Assembly within thirty days of its receipt. The Comptroller shall provide a final
29 annual report on or before December 15. ~~Beginning with the final report issued for the fiscal year ending June 30, 1986, the~~
30 The report is to shall include (i) financial statements which that shall be are prepared, insofar as practical as determined by
31 the Comptroller and the Auditor of Public Accounts, in conformance accordance with generally accepted accounting
32 principles, and also include; (ii) supplementary statements prepared on the budgetary basis of accounting. The final report
33 shall also include; (iii) information provided by the State Treasurer on the status of bonded debt in the Commonwealth and the
34 future general fund requirements thereof, as well as such for such debt; and (iv) other information as deemed necessary by
35 the State Treasurer. The Comptroller and the State Treasurer shall also make such other reports at such times as the
36 Governor may require.

37 **DRAFTING NOTE:** Technical corrections only.

38 Article 2.

39 Claims Against Commonwealth.

40 ~~§-2.1-223~~ 12.2-814. To whom claims to be presented; Comptroller to furnish forms.

41 A. Any person having any pecuniary claim against the Commonwealth upon any legal ground shall present the same
42 to the head of the department, division, institution or agency of the Commonwealth responsible for the alleged act or omission
43 which, if proved, gives rise to ~~such the~~ claim; ~~provided, however, that whenever~~ if, however, the claimant cannot identify ~~such~~
44 the alleged act or omission with any single department, division, institution or agency of the Commonwealth, then the claim
45 shall be presented to the Comptroller.

46 B. The Comptroller shall supply the several clerks of record and, upon request, each head of a department, division,
47 institution or agency mentioned in subsection A with the necessary forms to be used by them for accounts payable out of the
48 state treasury.

49 **DRAFTING NOTE:** Technical corrections. This section is comprised of the following existing sections: subsection A is § 2.1-
50 223.1 and subsection B is § 2.1-223.2.

51 ~~§-2.1-223.2~~ Comptroller to furnish forms for accounts payable out of state treasury.

3 The Comptroller shall supply the several clerks of record and, upon request, each head of a department, division,
4 institution or agency mentioned in § 2.1-223.4, with the necessary forms to be used by them for accounts payable out of the
5 state treasury.

6 **DRAFTING NOTE:** Technical corrections. This section now appears as new subsection B of proposed § 2.2-814.

7 ~~§ 2.1-223.3~~ 2.2-815. Claims to be examined and forwarded to Comptroller; what Comptroller may allow.

8 A. Every claim authorized to be presented to the Comptroller or to the head of a department, division, institution or
9 agency shall be examined by the person to whom it is presented and forwarded with appropriate supporting papers and
10 recommendations without unreasonable delay to the Comptroller, who shall promptly allow so much on account thereof as
11 may appear the amount that appears to be due.

12 B. No allowance made by order of any court of record shall be paid out of the state treasury, unless presented to the
13 Comptroller for payment within two years from the date of the allowance.

14 **DRAFTING NOTE:** Technical corrections. This section is comprised of the following existing sections: subsection A is § 2.1-
15 223.3 and subsection B is § 2.1-223.4.

16 ~~§ 2.1-223.4. Within what time allowance by court shall be paid.~~

17 ~~No allowance made by order of any court of record shall be paid out of the state treasury, unless presented to the~~
18 ~~Comptroller for payment within two years from the date of such allowance.~~

19 **DRAFTING NOTE:** Technical corrections. This section now appears as new subsection B of proposed § 2.2-815.

20 ~~§ 2.1-223.6~~ 2.2-816. When Comptroller may refer claim to Governor.

21 Whenever a claim cannot be allowed solely because it was not presented within the time prescribed by § 8.01-255,
22 the Comptroller may, within three years after the claim might have been presented, refer the same to the Governor, and so
23 much thereof shall be paid as the Governor may direct who may direct payment of all or any part of the claim.

24 **DRAFTING NOTE:** Technical corrections only.

25 CHAPTER 9.

26 DEPARTMENT OF BUSINESS ASSISTANCE.

27 ~~§ 2.1-548.44~~ 2.2-900. Creation of Department; appointment of Director; powers & duties.

28 A. There is hereby created the a Department of Business Assistance (the "Department"). The Department which that
29 shall be headed by a Director who shall be appointed by the Governor to serve at his pleasure and for a term coincident with
30 the Governor's.

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

34 **DRAFTING NOTE:** Technical corrections only. This proposed section is comprised of the following existing sections:
35 subsection A is § 2.1-548.44 and subsection B is § 2.1-548.45. Subsection A has been amended to comply with existing §
36 2.1-41.2, which requires that all agency heads appointed by the Governor shall be subject to confirmation by the General
37 Assembly, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the
38 Governor.

39 ~~§ 2.1-548.45. Powers and duties of Director.~~

40 ~~The Director of the Department of Business Assistance, under the direction and control of the Governor, shall~~
41 ~~exercise such powers and perform such duties as are conferred or imposed upon him by law, and he shall perform such other~~
42 ~~duties as may be required of him by the Governor. The Director shall receive such compensation as may be provided by law.~~

43 **DRAFTING NOTE:** This section now appears as subsection B in proposed § 2.2-900.

44 ~~§ 2.1-548.46-2.2-901. General powers-Additional power of Department.~~

45 The Department or, with the approval of the Director, a division of the Department shall have the power to:

46 1. ~~Employ such personnel as may be required to carry out the purposes of this chapter;~~

47 2. ~~Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the~~
execution of its powers under this chapter, including, but not limited to, contracts with the United States, other state agencies
and governmental subdivisions of the Commonwealth;

1 ~~3. Accept grants from the United States government and agencies and instrumentalities thereof and any other~~
2 ~~source. To those ends, the Department shall have the power to comply with such conditions and execute such agreements~~
3 ~~may be necessary, convenient or desirable;~~

4 ~~4. Promulgate~~adopt regulations and issue guidelines necessary or incidental to the performance of the duties or
5 execution of the powers conferred under this title and other relevant chapters, which regulations shall be ~~promulgated~~adopted
6 by the Department in accordance with the provisions of Article 2 (§ ~~9-6.14:7.1~~ 2.2-4006 et seq.) of the Administrative Process
7 Act; and

8 ~~5. Do all acts necessary or convenient to carry out the purposes of this chapter.~~

9 **DRAFTING NOTE:** Technical corrections. The stricken language has been consolidated with other like provisions into
10 proposed § 2.2-601, which is located at the beginning of Chapter 6—State agencies; in Article 1, general provisions.

11 ~~§-2.1-548.47~~ 2.2-902. Duties of the Department; state agencies to furnish information.

12 A. The Department of Business Assistance shall serve as the liaison between the Commonwealth's existing
13 business and state government in order to promote the development of Virginia's economy. To that end, the Department
14 shall:

15 1. Provide for training or retraining of individuals for specific employment opportunities at new or expanding business
16 facilities in the Commonwealth;

17 2. Develop and implement programs to assist small businesses in the Commonwealth in order to promote their
18 growth and the creation and retention of jobs for Virginians;

19 3. Establish an industry program ~~which that~~ is the principal point of communication between basic employers in the
20 Commonwealth and the state government ~~which that~~ will address issues of significance to business;

21 4. Make available to existing businesses, in conjunction and cooperation with localities, chambers of commerce, and
22 other public and private groups, basic information and pertinent factors of interest and concern to such businesses; and

23 5. Develop statistical reports on job creation and the general economic conditions in the Commonwealth.

24 B. All agencies of the Commonwealth shall assist the Department upon request and furnish such information and
25 assistance as the Department may require in the discharge of its duties.

26 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
27 A is § 2.1-548.47 and subsection B is § 2.1-548.48.

28 ~~§-2.1-548.48. State agencies to furnish information and assistance.~~

29 ~~All agencies of the Commonwealth shall assist the Department upon request and furnish such information and~~
30 ~~assistance as the Department may require in the discharge of its duties.~~

31 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-902.

32 ~~§-2.1-249.1~~ 2.2-903. Nonstock corporation to assist small businesses.

33 ~~The Department of Business Assistance is hereby authorized to~~ may establish a nonstock corporation under
34 Chapter 10 (§ 13.1-801 et seq.), Title 13.1 as an instrumentality to assist the Department in providing support to the small
35 business segment of the economy of the Commonwealth. The Department ~~is further authorized to~~ may do all things
36 necessary to qualify such corporation as a certified development company under Subchapter V of the Small Business
37 Investment Act of 1958 (15 U.S.C. § 695 et seq.), or any amendment or successor statute thereto, as well as regulations
38 ~~promulgated~~adopted thereunder by the United States Small Business Administration. Any action by the Department to
39 establish such a corporation prior to July 1, 1986, is ~~hereby~~ ratified and approved.

40 **DRAFTING NOTE:** Technical corrections only.

41 CHAPTER 10.

42 DEPARTMENT OF EMPLOYMENT DISPUTE RESOLUTION.

43 ~~§-2.1-116.01~~ 2.2-1000. Office of Employee Relations Counselors continued as Creation of Department of
44 Employment Dispute Resolution; appointment of Director; powers and duties.

45 ~~The Office of Employee Relations Counselors is continued and shall hereafter be known as the~~ There is created a
46 Department of Employment Dispute Resolution (the "Department"). The Department shall be under the direct control and
47 supervision of the Governor. Wherever the term "Office of Employee Relations Counselors" is used in any law of the
48 Commonwealth, it shall mean the Department of Employment Dispute Resolution, which that shall be headed by a Director
49 appointed by the Governor to serve at his pleasure.

50 B. This chapter shall be known and may be cited as the Employment Dispute Resolution Act.

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

3 **DRAFTING NOTE:** Technical corrections only. This proposed section is comprised of a consolidation of §§ 2.1-116.01 and
4 2.1-116.02, with standard language relating to the exercise of powers conferred by law, etc., added to proposed subsection B.
5 Subsection B, shown here as stricken, has been deleted as unnecessary.

6 ~~§ 2.1-116.02. Appointment of Director.~~

7 ~~The Department of Employment Dispute Resolution shall be headed by a Director who shall be appointed by the~~
8 ~~Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor.~~

9 **DRAFTING NOTE:** Technical corrections only. This section now appears in subsection A of proposed § 2.2-1000.

10 ~~§ 2.1-116.03~~ 2.2-1001. Director to administer Department; powers and duties.

11 The Director shall, under the direction and control of the Governor, administer and supervise the Department and
12 shall:

13 1. Establish a comprehensive program of employee relations management ~~which~~that includes alternative processes
14 for resolving employment disputes;

15 2. Establish the grievance procedure and a statewide mediation program;

16 3. ~~Promulgate~~Adopt rules and set hearing officer fees for grievance hearings;

17 4. For employees who are covered by the grievance procedure, (i) provide forms necessary for the proper use of the
18 grievance procedure;_i (ii) direct full compliance with the grievance procedure process;_i (iii) investigate allegations of
19 retaliation as the result of use of or participation in the grievance procedure or of reporting, in good faith, an allegation of
20 fraud, waste or abuse to the State Employee Fraud, Waste and Abuse Hotline and advise the agency head of ~~such~~the
21 findings;_i and (iv) rule on the qualification of a grievance or the question of access to the grievance procedure;

22 5. Render final decisions, containing the reasons for such decision, on all matters related to procedural compliance
23 with the grievance procedure;

24 6. Establish a process to select, on a rotating basis, hearing officers for grievance hearings from (i) the list
25 maintained by the Executive Secretary of the Supreme Court or (ii) attorneys hired as classified employees by the
26 Department through a competitive selection process; train and assign such hearing officers to conduct grievance hearings;
27 evaluate the quality of their services to determine eligibility for continued selection; and, if deemed ineligible for continued
28 selection, establish policies for removing such hearing officers from consideration for future selection;

29 7. Publish hearing officer decisions and Department rulings;

30 8. Establish, in conjunction with the Department of Human Resource Management, a training program for human
31 resources personnel on employee relations management and employment rights and responsibilities;

32 9. Implement a comprehensive training and instructional program for all supervisory personnel ~~which~~that includes
33 the role of the grievance procedure in harmonious employee relations management. The training program shall also include
34 methods for supervisors to instruct nonsupervisory personnel in the use of the grievance procedure. Use of the grievance
35 procedure to resolve disputes shall be encouraged. In-house resources shall be developed to allow the Department and its
36 personnel to conduct on-site training of this nature for units and agencies of state government throughout Virginia. The
37 Department shall assist agencies in establishing performance criteria for such supervisory personnel;

38 10. Provide information upon the request of any employee concerning personnel policies, ~~rules and~~ regulations, and
39 ~~statutes~~law applicable to the grievance procedure and counsel employees in the resolution of conflict in the workplace;

40 11. Establish and maintain a toll-free telephone number to facilitate access by employees to the services of the
41 Department;

42 12. Collect information and statistical data ~~in regard to~~regarding the use of the grievance procedure and the
43 effectiveness of employee relations management in the various state agencies;

44 13. Make recommendations to the Governor and the General Assembly to improve the grievance procedure and
45 employee relations management;

46 14. Exercise such other powers and perform such other duties as may be requested by the Governor; and

47 15. Perform all acts and employ such personnel as may be required, necessary, or convenient to carry out the
48 provisions of this chapter.

49 **DRAFTING NOTE:** Technical corrections only.

CHAPTER 11,
DEPARTMENT OF GENERAL SERVICES.

Article 1.

General Provisions.

~~§ 2.1-422~~ 2.2-1100. Creation of Department; appointment of Director; duties.

~~A. There is hereby created a Department of General Services. The Department (the "Department"), which shall be headed by a Director who shall be appointed by the Governor to serve at his pleasure for a term coincident with his own.~~

~~B. The Director of the Department shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor. The Director shall be responsible for the overall supervision of the Department's divisions, programs and personnel. Under his direction the Department shall serve as an agency whose services are primarily for the support of other state agencies in carrying out their programs. The head of each division shall, under the direction and control of the Director, exercise the powers and perform the duties conferred by this chapter as they pertain to his division and perform such other duties as required by the Director.~~

~~C. Whenever in this title and in the Code of Virginia, reference is made to a division, department or agency hereinafter transferred to this Department, it shall mean the Department of General Services, through the division to which the powers and duties of that division, department or agency are assigned. Nothing in this section shall limit the authority of the Director to assign or reassign the duties of the Department's divisions to such of these divisions as may best perform them.~~

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A and C are § 2.1-422 and subsection B is § 2.1- 423. Additionally, the second sentence in subsection B is from the first paragraph of § 2.1-425, and the second sentence in subsection C is from the last paragraph of § 2.1-425. Subsection A has been amended to comply with existing § 2.1-41.2, which requires that all agency heads appointed by the Governor shall be subject to confirmation by the General Assembly, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor.

~~§ 2.1-423. Powers and duties of Director.~~

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

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-1100.

~~§ 2.1-425~~ 2.2-1101. ~~Supervision of Department~~ Creation of internal service fund accounts.

~~The Director shall be responsible for the overall supervision of the Department's divisions, programs and personnel. Under his direction the Department shall serve as an agency whose services are primarily for the support of other state agencies in carrying out their programs. The head of each division, however, shall be vested with the power and duty of carrying out the provisions of this chapter as they pertain to his division.~~

~~Upon written request of the Director of the Department of General Services, the Joint Legislative Audit and Review Commission may direct the Comptroller to establish working capital internal service fund accounts on his books and record therein the receipts and expenditures for appropriate functions of the Department. The Comptroller shall provide the Department with working capital advances with which to finance these operations pursuant to appropriations made by law. Charges for services rendered sufficient to offset costs involved in these operations shall be established.~~

~~Nothing in this section shall limit the authority of the Director to assign or reassign the duties of the Department's divisions to such of these divisions as may best perform them.~~

DRAFTING NOTE: Technical corrections only. The first paragraph has been moved to proposed § 2.2-1100 as the second sentence in subsection B. The last paragraph has been moved to proposed § 2.2-1100 as the second sentence in subsection C. The term "working capital fund" has been replaced with the term "internal service fund" on the recommendation of the Comptroller.

~~§ 2.1-424~~ 2.2-1102. ~~General~~ Additional powers of Department.

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

1. ~~Employ such personnel as may be required to carry out the purposes of this chapter;~~

2. ~~Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth;~~

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

4. ~~Prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter; and~~

5. ~~2. Establish fee schedules which that may be collectible from users when general fund appropriations are not applicable to the services rendered; and.~~

6. ~~Do all acts necessary or convenient to carry out the purposes of this chapter.~~

B. All statewide contracts and agreements made and entered into by the Department for the purchase of computers, software, supplies, and related peripheral equipment and services shall provide for the inclusion of counties, cities, and towns in such contracts and agreements. For good cause shown, the Secretary of Administration may disapprove ~~such the~~ inclusion from a specific contract or agreement.

C. The Department may operate or provide for the operation of hazardous waste management facilities.

DRAFTING NOTE: Technical corrections only. This proposed section is comprised of the following existing sections: subsection A and B are § 2.1-424 and subsection C is § 2.1-425. The stricken language has been consolidated with other like provisions into proposed § 2.2-601, which is located at the beginning of Chapter 6—State agencies; in Article 1, general provisions. The powers listed in this proposed section come from existing § 2.1-424, and are powers granted specifically to the Department of General Services.

~~§ 2.1-425.2. Operation of hazardous waste facility.~~

~~The Department of General Services through its Division of Engineering and Buildings may operate or provide for the operation of hazardous waste management facilities.~~

DRAFTING NOTE: Technical corrections only. This section now appears as subsection C in proposed § 2.2-1102.

Article 2.

Division Of Consolidated Laboratory Services.

~~§ 2.1-426~~ 2.2-1103. Division of Consolidated Laboratory Services.

~~The~~ Within the Department shall be created the Division of Consolidated Laboratory Services, ~~heretofore existing as an independent agency, is hereby transferred to the Department of General Services, which shall exercise the powers and duties described in this article through the Division of Consolidated Laboratory Services. The Division (the "Division"), which shall provide certain laboratory services, including research and scientific investigations, for various agencies of the Commonwealth in an efficient, effective and professional manner. The provisions of this article shall in no manner limit the authority and responsibilities of institutions of higher learning education from conducting laboratory services, research and scientific investigations independently of the Division.~~

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-429~~ 2.2-1104. Laboratory, testing, and analytical functions.

A. The Division shall provide, but ~~is not be~~ is not limited to, the following specific laboratory, testing and analytical functions:

1. Maintain laboratories for the examination of clinical material and pathological specimens submitted by members of the medical profession of the Commonwealth and for which the Division may charge fees to recover full costs.

2. Provide laboratory services for the testing and analysis of various products, foods, drinks, economic poisons and other materials regulated or controlled by the Commonwealth.

3. Provide laboratory services for the analysis and examination of samples and materials related to environmental control.

4. Establish and conduct programs of inspection and certification of other laboratories in the Commonwealth as mandated by the federal Safe Drinking Water Act (P.L. 93-523) and state requirements pursuant to that Act.

B. No fee shall be charged for the analyses of water samples ~~which that~~ which that are required by regulations of the Department of Health or for feed and fertilizer samples ~~which that~~ which that are required by regulations of the Department of Agriculture and Consumer Services.

C. The Division may provide, upon request of any law-enforcement agency, chemical and microbiological testing and analytical functions related to any criminal investigation. Nothing in this section shall be construed to limit or preclude the Division of Forensic Science within the Department of Criminal Justice Services from conducting all necessary testing and analytical functions associated with any criminal investigation.

1 D. Upon request of a bidder on any state contract ~~which that~~ requires the Division to test or analyze the pro-
2 being offered by the bidder, the Director of the Division of Purchases and Supply may allow such bidder or his representi
3 to witness the test or analysis.

4 E. The Division shall provide for security and protection of evidence, official samples and all other samples submitted
5 to the Division for analysis or examination.

6 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections; subsections
7 A through D are § 2.1-429 and subsection E is § 2.1-430.

8 ~~§ 2.1-429.04 2.2-1105. (Effective January 1, 1998) Environmental laboratory certification program.~~

9 A. The Division of ~~Consolidated Laboratory Services~~ shall by regulation establish a program for the certification of
10 laboratories conducting any tests, analyses, measurements, or monitoring required pursuant to Chapter 13 (§ 10.1-1300 et
11 seq.) of Title 10.1, the Virginia Waste Management Act (§ 10.1-1400 et seq.), or the State Water Control Law (§ 62.1-44.2 et
12 seq.). The program shall include, but need not be limited to, minimum criteria for: (i) laboratory procedures; (ii) performance
13 evaluations; (iii) supervisory and personnel requirements; (iv) facilities and equipment; (v) analytical quality control and
14 quality assurance; (vi) certificate issuance and maintenance; (vii) recertification and decertification; and (viii) granting partial
15 and full exemptions from the program based on compliance and performance. ~~Such~~ The regulations shall be promulgated
16 only after adoption of national accreditation standards by the National Environmental Laboratory Accreditation Conference
17 sponsored by the United States Environmental Protection Agency. The purpose of the program shall be to ensure that
18 laboratories provide accurate and consistent tests, analyses, measurements and monitoring so that the goals and
19 requirements of Chapter 13 of Title 10.1, the Virginia Waste Management Act, and the State Water Control Law may be met.

20 B. Once the certification program has been established, laboratory certification shall be required before any tests,
21 analyses, measurements or monitoring performed by a laboratory may be used for the purposes of Chapter 13 (§ 10.1-1300
22 et seq.) of Title 10.1, the Virginia Waste Management Act, and the State Water Control Law.

23 C. The Division shall by regulation establish a fee system to offset the costs of the certification program. The
24 regulations shall establish fee categories based upon the types of substances for which tests, analyses, measurements or
25 monitoring are performed. ~~Such~~ The fees shall be used solely for offsetting the costs of the laboratory certification program.

26 D. The Division shall develop procedures for determining the qualifications of laboratories located in jurisdictions
27 outside of Virginia to conduct tests, analyses, measurements or monitoring for use in Virginia. Laboratories located outside of
28 Virginia that are certified or accredited under a program determined by the Division to be equivalent to the pro-
29 established under this section shall be deemed to meet the certification requirements ~~established hereunder~~.

30 ~~E. Without limiting in addition to any other penalties available under this chapter, penalty provided by law,~~
31 laboratories found to be falsifying any data or providing false information to support certification shall be decertified or denied
32 certification.

33 **DRAFTING NOTE:** Technical corrections only.

34 ~~§ 2.1-429.4 2.2-1106. Consolidation of other laboratories.~~

35 The Director of the Department of ~~General Services~~ is authorized to may take in and absorb within the Division of
36 ~~Consolidated Laboratory Services~~ any laboratory activity that is owned and operated by a political subdivision of the
37 Commonwealth that will conform to the duties and responsibilities of the Division. Any costs that may accrue to the
38 Commonwealth as a result of the consolidation ~~must~~ shall be paid out of funds specifically appropriated for this purpose by
39 the ~~general appropriations~~ appropriation act.

40 **DRAFTING NOTE:** Technical corrections only.

41 ~~§ 2.1-430. Security and protection of evidence, etc.~~

42 ~~The Division shall provide for security and protection of evidence, official samples, and all other samples submitted~~
43 ~~to the Division for analysis or examination.~~

44 **DRAFTING NOTE:** Technical corrections. This section now appears as new subsection E in proposed § 2.2-1104.

45 ~~§ 2.1-432 2.2-1107. Disposal of certain hazardous materials.~~

46 Any material ~~which is~~ seized in any a criminal investigation, and which is deemed to be hazardous to health and
47 safety, may be disposed of upon written application of the Division of ~~Consolidated Laboratory Services~~ to the attorney for the
48 Commonwealth in the city or county where the material is seized or where any criminal prosecution in which such material is
49 proposed to be evidence is pending. Upon receipt ~~thereof~~, the attorney for the Commonwealth shall file the application in the
50 circuit court of such county or city. A sworn analysis report signed by a person designated by the Director of the Division of
51 ~~Consolidated Laboratory Services~~ shall accompany the application for disposal and shall clearly identify and designate the
52 material ~~to be disposed of~~ for disposal. The application shall state the nature and quantity of the hazardous materials, ~~the~~
53 ~~quantity thereof,~~ the location where seized, the person ~~or persons~~ from whom the materials were seized, and the me
54 whereby such in which the material shall be destroyed. Where the ownership of the hazardous material is known, notice

1 be given to the owner thereof at least three days prior to any hearing relating to the destruction, and, if any criminal charge is
2 pending in any court as a result of such the seizure, such notice shall be given to the accused if other than the owner. Upon
3 receipt of the analysis report and the application, the court may order the destruction of all, or a part of, such the material;
4 however, a sufficient and representative quantity of such the material shall be retained to permit an independent analysis
5 when a criminal prosecution may result from such the seizure. A return under oath, reporting the time, place and manner of
6 destruction shall be made to the courts. Copies of the analysis report, application, order and return shall be made a part of the
7 record of any criminal prosecution. The sworn analysis report shall be admissible as evidence to the same extent as the
8 disposed-of material would have been admissible.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 2-1-432-1~~ 2.2-1108. Disposal of certain other property.

11 Personal property, including drugs, not subject to be disposed of under ~~§ 2-1-432~~ 2.2-1107, which has been
12 submitted to the Division of ~~Consolidated Laboratory Services~~ for analysis or examination and which that has not been
13 reclaimed by the agency submitting such the property for analysis or examination, may be disposed of by the Division in
14 accordance with this section if, after the expiration of 120 days after the receipt by the Division of the property, (i) the Director
15 notifies the circuit court of the county or city from which the property was taken, in writing, that the analysis or examination
16 has been completed, and (ii) a report submitted is given to the submitting agency; that the property has not been reclaimed by
17 the agency submitting it, and that the Division proposes to dispose of such the property. The notice shall state the nature and
18 quantity of the property, the quantity thereof, the location where seized, the name of the accused, if known, and the proposed
19 method of disposing of the property. When the ownership of the property is known, a copy of such the notice shall be sent
20 simultaneously with the notice to the court to the owner, or, if any criminal charge is pending in any court relating to the
21 property, the copy shall be sent to the accused at his last known address. Notice shall be by certified mail. The court, within
22 thirty days after receipt of the notice, may direct that the property be disposed of by the Division by an alternative method
23 designed to preserve the property, at the expense of the agency submitting the property to the Division. If the court does not
24 so direct within such thirty-day period, then the Division may dispose of the property by the method set out in the notice.
25 Copies of the analysis report and notice shall be made a part of the record of any criminal prosecution. ~~Such The~~ report, if
26 sworn to, shall be admissible as evidence to the same extent as the disposed; of property would have been admissible.

27 **DRAFTING NOTE:** Technical corrections only.

28 Article 3.

29 Division Of Purchases And Supply.

30 ~~§ 2-1-435~~ 2.2-1109. Division of Purchases and Supply established.

31 ~~The Within the Department of Purchases and Supply, heretofore existing as an independent agency, is hereby~~
32 ~~transferred to the Department of General Services, shall be created a Division of Purchases and Supply (the "Division"),~~
33 which shall exercise the powers and duties described in this article through a Division of Purchases and Supply.

34 **DRAFTING NOTE:** Technical corrections only.

35 ~~§ 2-1-440~~ 2.2-1110. Using agencies to purchase through Division of Purchases and Supply; exception.

36 A. Except as otherwise directed and authorized by the Division or in the Code of Virginia, every department, division,
37 institution, officer and agency of the Commonwealth, hereinafter called the using agency, shall purchase through the Division
38 of ~~Purchases and Supply~~ all materials, equipment, supplies, printing and nonprofessional services of every description,
39 whenever the whole or a part of the costs is to be paid out of the state treasury. The Division shall make such purchases in
40 conformity with this article.

41 B. The provisions of subsection A shall not apply to the purchase of materials, equipment, supplies, printing and
42 nonprofessional services of every description by the Virginia Retirement System; however, the Board of Trustees of the
43 Virginia Retirement System shall promulgate rules and adopt regulations made in accordance with the Virginia Public
44 Procurement Act (§ 2.2-4300 et seq.) that specify policies and procedures which that are based on competitive principles and
45 which that are generally applicable to procurement of such goods and services by comparably situated state agencies.
46 ~~Exemption from subsection A shall be applicable. The exemption provided by this subsection shall apply for only as long as~~
47 ~~such rules and regulations, or other rules and regulations meeting the requirements of this subsection, remain in effect at the~~
48 Virginia Retirement System.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§ 2-1-442~~ 2.2-1111. (Effective July 1, 1998) Purchases to be made in accordance with Chapter 7 of Title 11 the
51 Virginia Public Procurement Act (§ 2.2-4300 et seq.) and rules and regulations of Division; exempt purchases.

52 A. All purchases made by any department, division, officer or agency of the Commonwealth shall be made in
53 accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and such rules and regulations as the Division may
54 prescribe.

1 | **B. ~~Such rules and~~ The regulations adopted by the Division shall:**

2 | 1. Include a purchasing plan ~~which that~~ shall be on file at the Division and shall be available to the public upon
3 | request;

4 | 2. Require that before any public body procures any computer system, equipment or software, it shall consider
5 | whether the proposed system, equipment or software is capable of producing products ~~which that~~ facilitate the rights of the
6 | public to access official records under the Freedom of Information Act (~~§ 2.1-340-2.2-3700~~ et seq.) or other applicable law;
7 | and

8 | 3. Establish the conditions under which a public body may use, as a basis for the procurement of goods and
9 | nonprofessional services, a particular vendor's contract-pricing ~~which that~~ has been negotiated and accepted by the U.S.
10 | General Services Administration.

11 | C. The Division ~~shall have authority to~~ may make, alter, amend or repeal regulations relating to the purchase of
12 | materials, supplies, equipment, nonprofessional services, and printing, and may specifically exempt purchases below a stated
13 | amount or particular agencies or specified materials, equipment, nonprofessional services, supplies and printing.

14 | **DRAFTING NOTE:** Technical corrections only.

15 | ~~§ 2.1-464. Uniform standards for state forms.~~

16 | ~~The Division of Purchases and Supply may set uniform standards for the design, utilization, procurement and~~
17 | ~~inventory of state forms.~~

18 | **DRAFTING NOTE:** Technical corrections only. This section has been moved to proposed § 2.2-1113 as subsection B.

19 | ~~§ 2.1-446~~ 2.2-1112. Standardization of materials, equipment and supplies.

20 | So far as practicable, all materials, equipment and supplies, purchased by or for the officers, departments, agencies
21 | or institutions of the Commonwealth, shall be standardized by the Division, and no variation shall be allowed from any
22 | established standard without the written approval of the Division. ~~Such The~~ standard shall be determined upon the needs of
23 | all using agencies, so far as their needs are in common, and for groups of using agencies or single using agencies so far as
24 | their needs differ. When changes or alterations in equipment are necessary in order to permit the application of any standard,
25 | ~~each the~~ changes and alterations shall be made as rapidly as possible.

26 | The Division shall determine the proper equipment or electrical devices used to monitor the speed of any motor
27 | vehicle pursuant to § 46.2-882 and shall so advise the respective law-enforcement officials ~~of the same~~. Police chiefs and
28 | sheriffs shall ensure that all such equipment and devices meet or exceed the standards established by the Division. This
29 | provision shall apply only to equipment and devices purchased on or after July 1, 1986.

30 | **DRAFTING NOTE:** Technical corrections only.

31 | ~~§ 2.1-465~~ 2.2-1113. Printing management coordination; uniform standards for state forms.

32 | A. The Division may establish criteria and procedures to obtain more economical operation of ~~State state~~ printing
33 | facilities, provide guidelines to agencies regarding the most beneficial utilization of duplicating and reproduction equipment,
34 | and to centralize printing, duplicating and reproduction equipment and services.

35 | B. The Division may set uniform standards for the design, utilization, procurement and inventory of state forms.

36 | **DRAFTING NOTE:** Technical corrections only. This proposed section is comprised of the following existing sections:
37 | subsection A is § 2.1-465 and subsection B is § 2.1-464.

38 | ~~§ 2.1-441~~ 2.2-1114. Rules and regulations-Regulations as to estimates and requisitions; submission of estimates.

39 | The Division shall prescribe and enforce ~~rules and~~ regulations under which estimates of the needs of the using
40 | agencies shall be submitted and requisitions made, and under which contracts for purchases may be made. Estimates of the
41 | amount and quality of materials, equipment, supplies, and printing needed by the using agencies shall be submitted at such
42 | periods as may be prescribed by the Division.

43 | **DRAFTING NOTE:** Technical corrections only.

44 | ~~§ 2.1-444~~ 2.2-1115. Execution of contracts; payment for purchases; violations.

45 | A. All contracts entered into by the Division shall be executed in the name of the Commonwealth of Virginia.

46 | B. All purchases made by or through the Division shall be paid for in the same manner and out of the same funds as
47 | if the purchase had not been made by or through it.

48 | C. The Division shall maintain a system of accounting prescribed by the State Comptroller. All moneys collected by
49 | the Division shall be paid promptly into the state treasury and reported to the State Comptroller for appropriate credit.

50 | D. The Comptroller shall not issue any warrant upon any voucher issued by any using agency covering the purchase
51 | of any material, equipment or supplies, when such purchases are made in violation of any provision of this article.

3 | E. Intentional violations of the centralized purchasing provisions of this article by any using agency, continued after
4 | notice from the Governor to desist, shall constitute malfeasance in office, and shall subject the officer responsible for violation
5 | to suspension or removal from office, as may be provided by law in other cases of malfeasance.

6 | **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
7 | A is § 2.1-444; subsection B is § 2.1-455; subsection C is § 2.1-438; and subsection D and E are § 2.1-456.

8 | ~~§ 2.1-455. Payment for purchases by Division.~~

9 | ~~All purchases made by or through the Division of Purchases and Supply shall be paid for in the same manner and~~
10 | ~~out of the same funds as if the purchase had not been made by or through it.~~

11 | **DRAFTING NOTE:** Technical corrections. This section has been merged into proposed § 2.2-1115 as new subsection B.

12 | ~~§ 2.1-438. Accounting and records; payment of moneys into state treasury.~~

13 | ~~The Division shall maintain such system of accounting as shall be prescribed by the State Comptroller.~~

14 | ~~All moneys collected by the Division shall be paid promptly into the state treasury and reported to the State~~
15 | ~~Comptroller for appropriate credit.~~

16 | **DRAFTING NOTE:** Technical corrections. This section has been merged into proposed § 2.2-1115 as new subsection C.

17 | ~~§ 2.1-456. When warrants for purchases not to be issued, intentional violations of article.~~

18 | ~~The Comptroller shall not issue any warrant upon any voucher issued by any using agency covering the purchase of~~
19 | ~~any material, equipment or supplies, when such purchases are made in violation of any provision of this article.~~

20 | ~~Intentional violations of the centralized purchasing provisions of this article by any using agency, continued after~~
21 | ~~notice from the Governor to desist, shall constitute malfeasance in office, and shall subject the officer or officers responsible~~
22 | ~~for such violations to suspension or removal from office, as may be provided by law in other cases of malfeasance.~~

23 | **DRAFTING NOTE:** Technical corrections. This section has been merged into proposed § 2.2-1115 as new subsections D
24 | and E.

25 | ~~§ 2.1-453 2.2-1116. Purchase of products of the penitentiary, etc and services of state correctional facilities.~~

26 | ~~The provisions of this article shall be subject to the provisions of Title 53.1 relating to the products and services of~~
27 | ~~the penitentiary and state farms state correctional facilities required by state departments, institutions, and agencies, and the~~
28 | ~~purchase of the same through this the Division.~~

29 | **DRAFTING NOTE:** Technical corrections only.

30 | ~~§ 2.1-450 2.2-1117. Purchases from Department for Visually Handicapped the Blind and Vision Impaired; violation.~~

31 | ~~Unless exempted by the Division, all such services, articles and commodities as (1)(i) are required for purchase by~~
32 | ~~the Division or by any person authorized to make purchases in-on behalf of the Commonwealth and their-its departments,~~
33 | ~~agencies and institutions, (2); (ii) are performed or produced by persons, or in schools or workshops, under the supervision~~
34 | ~~of the Virginia Department for the Visually Handicapped Blind and Vision Impaired, (3); (iii) are available for sale by the-such~~
35 | ~~Department; and (4)(iv) conform to the standards established by the Division shall be purchased from the-such Department~~
36 | ~~at the fair market price without competitive procurement. When convenience or emergency requires it the Commissioner of~~
37 | ~~the Department for the Blind and Vision Impaired may, upon request of the purchasing officer, release the purchasing officer~~
38 | ~~from the obligations of this section. Any purchasing officer who violates its provisions shall be guilty of a misdemeanor and~~
39 | ~~upon conviction shall be punished accordingly convicted of a violation of this section shall be guilty of a Class 1~~
40 | ~~misdemeanor.~~

41 | **DRAFTING NOTE:** Technical corrections only.

42 | ~~§ 2.1-450 2.2-1118. Purchases from nonprofit sheltered workshops of Virginia serving the handicapped.~~

43 | ~~A. The Division shall publish annually a list of materials, supplies, services and equipment which, in the opinion of~~
44 | ~~the Division, would be beneficial to the Commonwealth to procure from a sheltered workshop. Such-The list shall exclude~~
45 | ~~items currently produced by schools or workshops under the supervision of the Virginia Department for the Visually~~
46 | ~~Handicapped Blind and Vision Impaired or by inmates confined in state correctional institutions.~~

47 | ~~B. Any item or service included on the list required by subsection A may be purchased by the Division from nonprofit~~
48 | ~~sheltered workshops serving the handicapped without competitive procurement, if the Division is satisfied that such-the items~~
49 | ~~and services (i) can be purchased within ten percent of their fair market value, (ii) will be of acceptable quality, and (iii) can be~~
50 | ~~produced in sufficient quantities within the time required.~~

51 | ~~C. Nothing in this section shall prohibit the Division from amending the list required under subsection A by adding~~
52 | ~~categories as they may develop after such-to the list after it has been published.~~

1 DRAFTING NOTE: Technical corrections only.

2 ~~§ 2.1-454 2.2-1119.~~ Cases in which purchasing through Division not mandatory.

3 Unless otherwise ordered by the Governor, the purchasing of materials, equipment, supplies and nonprofessional
4 services through the Division of Purchases and Supply ~~is shall not be~~ mandatory in the following cases:

5 1. ~~Such materials~~ Materials, equipment and supplies ~~as are~~ incident to the performance of a contract for labor or for
6 labor and materials;

7 2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The Library
8 of Virginia or any other library in the Commonwealth supported in whole or in part by ~~state appropriation funds~~;

9 3. Perishable articles, provided that no article except fresh vegetables, ~~fresh fish, fresh eggs and or~~ milk shall be
10 considered perishable within the meaning of this ~~clause subdivision~~, unless so classified by the Division ~~of Purchases and~~
11 Supply;

12 4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this exception
13 may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for
14 heating purposes ~~only shall not be included except~~ when authorized in writing by the Division;

15 5. Materials, equipment and supplies needed by the Virginia Alcoholic Beverage Control Board; however, this
16 exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel
17 oil for heating purposes ~~only shall not be included except~~ when authorized in writing by the Division;

18 6. Binding and rebinding of the books and other literary materials of libraries operated by the Commonwealth or
19 under its authority;

20 7. Printing of the records of the Supreme Court; and

21 8. Financial services, including without limitation, underwriters, financial advisors, investment advisors and banking
22 services.

23 DRAFTING NOTE: Technical corrections only.

24 ~~§ 2.1-447 2.2-1120.~~ Direct purchases by using agencies.

25 A. The Division shall have the power, by general rule or special order, to permit purchases of any material,
26 equipment, supplies, printing or nonprofessional services of every description to be made by any using agency direct
27 not through the Division, whenever it appears to the satisfaction of the Division that by reason of the excess transp
28 costs, a lower price with equal quality can be obtained by the using agency, or for any other reason, which in the judgment of
29 the Division warrants ~~such an~~ exemption.

30 B. The Division shall allow corporations operating in Virginia and granted tax exempt status under § 501 (c) (3) of the
31 Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary
32 health care services (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a
33 reduced or sliding fee scale or without charge, to purchase directly from contracts established for state agencies and public
34 bodies by the Division.

35 DRAFTING NOTE: Technical corrections only. This proposed section is comprised of the following existing sections:
36 subsection is § 2.1-448 and subsection B is § 2.1-447.1.

37 ~~§ 2.1-440.4 2.2-1121.~~ Procurement of computer equipment to be based on performance-based specifications.

38 Should any agency or institution elect to procure personal computers and related peripheral equipment pursuant to
39 any type of blanket purchasing arrangement under which public bodies, as defined in § 2.2-4301, may purchase such goods
40 from any vendor following competitive procurement but without the conduct of an individual procurement by or for the using
41 agency or institution, it shall establish, with the cooperation of the Department of Information Technology, performance-based
42 specifications for the selection of equipment. Establishment of such contracts shall emphasize performance criteria including
43 price, quality, and delivery without regard to "brand name." All vendors meeting the Commonwealth's performance
44 requirements shall be afforded the opportunity to compete for such contracts.

45 DRAFTING NOTE: Technical corrections only.

46 ~~§ 2.1-447.1. Direct purchases by charitable corporations.~~

47 ~~The Division shall allow corporations operating in Virginia and granted tax exempt status under § 501 (c) (3) of the~~
48 ~~Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary~~
49 ~~health care services (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a~~
50 ~~reduced or sliding fee scale or without charge, to purchase directly from contracts established for state agencies and public~~
51 ~~bodies by the Division.~~

52 DRAFTING NOTE: This section has been merged into proposed § 2.1-1120 as new subsection B.

1 ~~§ 2-1-454.4~~ 2.2-1122. Aid and cooperation of Division may be sought by any public body or public broadcasting
2 station in making purchases; use of facilities of ~~central warehouse~~ Virginia Distribution Center; Board to furnish list of public
3 broadcasting stations to Division; services to certain volunteer organizations.

4 A. Virginia public broadcasting stations as defined in ~~§ 2-1-563.27:2~~ 2.2-2427, and public bodies as defined in § 2.2-
5 4300 who are empowered to purchase material, equipment, and supplies of any kind, ~~in their discretion~~, may purchase
6 through the Division of ~~Purchases and Supply~~. When any such public body, public broadcasting station, or duly authorized
7 officer requests ~~that the Division to obtain bids for any materials, equipment and supplies, and such the bids accordingly have~~
8 ~~been obtained by the Division of Purchases and Supply, the Division may award the contract to the lowest responsible bidder,~~
9 ~~and such the public body or public broadcasting station shall be bound by such the contract. The Division shall set forth in the~~
10 ~~purchase order that the materials, equipment and supplies be delivered to, and that the bill therein be rendered and~~
11 ~~forwarded to, such the public body or public broadcasting station. Any such bill shall be a valid and enforceable claim against~~
12 ~~the public body or public broadcasting station requesting the Division to seek such bids.~~

13 B. The Division may make available to any public body or public broadcasting station the facilities of the ~~central~~
14 ~~warehouse~~ Virginia Distribution Center maintained by the Division; however, the furnishing of any such services or supplies
15 shall not limit or impair any services or supplies normally rendered any department, division, institution or agency of the
16 Commonwealth.

17 C. The Virginia Public Broadcasting Board shall furnish to the Division of ~~Purchases and Supply~~ a list of public
18 broadcasting stations in Virginia for the purposes of this section.

19 D. The services or supplies authorized by this section shall extend to any volunteer fire company or volunteer rescue
20 squad ~~which that~~ is recognized by an ordinance to be a part of the safety program of a county, city or town when ~~such the~~
21 services or supplies are sought through and approved by the governing body of such county, city or town.

22 **DRAFTING NOTE:** Technical corrections only.

23 ~~§ 2-1-445.4~~ 2.2-1123. Acquisition of surplus materials from the United States government.

24 The Division is designated as the agency of state government responsible for acquiring surplus personal property,
25 including but not limited to materials, supplies, and equipment, by purchase, gift, or otherwise, from the United States
26 government or any of its agencies for distribution to departments, agencies, institutions and political subdivisions of the
27 Commonwealth and to eligible, nonprofit, nongovernmental organizations for use in ~~such the~~ organizations' activities within
28 the Commonwealth. ~~Such The~~ acquisitions shall be made, when in the judgment of the Division, it ~~shall be is~~ advantageous to
29 the Commonwealth to do so. ~~Such The~~ property may be acquired for storage and subsequent distribution or for immediate
30 distribution. The Division may collect the purchase price of any such property, if applicable, and service charges sufficient to
31 defray the costs of carrying out this program from entities to which it distributes ~~such the~~ property. The Division shall publish a
32 plan, ~~or plans, which that meet meets~~ the requirements of the Federal Property and Administrative Services Act of 1949, as it
33 may be amended from time to time, and any similar federal statutes requiring such plan.

34 The Division ~~shall have the power may~~, by general rule or special order, ~~to~~ delegate to any using department,
35 agency, institution, political subdivision, or eligible, nonprofit, nongovernmental organization the authority to acquire such
36 property directly from the federal government rather than through the Division, whenever the Division determines that it shall
37 ~~appear to the satisfaction of the Division that it is~~ advantageous to do so. The Division may prescribe ~~rules and~~ regulations for
38 the acquisition of such property by entities to which it delegates its authority.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§ 2-1-457.2~~ 2.2-1124. Disposition of surplus materials.

41 A. "Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and
42 recyclable items, but ~~does shall~~ not include property as defined in ~~§ 2-1-504~~ 2.2-1147 that is determined to be surplus.
43 Surplus materials shall not include finished products ~~which that~~ a mental health or mental retardation facility sells for the
44 benefit of its patients or residents, provided that (i) most of the supplies, equipment, or products have been donated to ~~such~~
45 ~~the facility, and whose;~~ (ii) the patients or residents of the facility have substantially altered ~~such the~~ supplies, equipment, or
46 products in the course of occupational or other therapy, ~~and such;~~ and (iii) the substantial alterations have resulted in a
47 finished product.

48 B. The Department of ~~General Services (the "Department")~~ shall establish procedures for the disposition of surplus
49 materials from departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:

50 1. Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or agencies of
51 the Commonwealth;

52 2. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501 (c)
53 (3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of
54 primary health care services (i) as federally qualified health centers designated by the Health Care Financing Administration
55 or (ii) at a reduced or sliding fee scale or without charge;

1 3. Permit public sales or auctions, provided that ~~such the~~ procedures provide for sale to all political subdivisions and
2 any volunteer rescue squad or volunteer fire department established pursuant to §15.2-955 any surplus materials prior to the
3 public sale or auction;

4 4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service departments for the
5 purpose of resale at cost to TANF recipients;

6 5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501 (c)
7 (3) of the Internal Revenue Code and operating as children's homes;

8 6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified in this section;

9 7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to be derived
10 therefrom or (b) the surplus material is not suitable for sale;

11 8. Permit any dog especially trained for police work to be sold at an appropriate price to the handler who last was in
12 control of ~~such the~~ dog, which sale shall not be deemed a violation of the State and Local Government Conflict of Interests
13 Act (~~§ 2-1-639.4~~ 2.2-3100 et seq.);

14 9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency of the
15 Commonwealth for distribution to needy individuals by and through local social services boards;

16 10. Encourage the recycling of paper products, beverage containers, and used motor oil;

17 11. Require ~~that~~ the proceeds from any sale or recycling of surplus materials be promptly deposited into the state
18 treasury in accordance with ~~§ 2-1-180~~ 2.2-1802 and report the deposit to the State Comptroller;

19 12. Permit donations of surplus computers and related equipment to public schools in the Commonwealth and
20 Virginia charitable corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and providing
21 services to persons with disabilities, at-risk youths, or low-income families. For the purposes of this subdivision, "at-risk
22 youths" means school-age children approved eligible to receive free or reduced price meals in the federally funded lunch
23 program; and

24 13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public television stations
25 located in the state and other nonprofit organizations approved for the distribution of federal surplus materials.

26 C. The Department shall dispose of surplus materials pursuant to the procedures established in subsection B or
27 permit any department, division, institution, or agency of the Commonwealth to dispose of its surplus materials consistent with
28 the procedures so established in ~~subsection B~~. No surplus materials shall be disposed of without prior consent of the head of
29 the department, division, institution, or agency of the Commonwealth in possession of such surplus materials or the Governor.

30 D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may donate surplus
31 materials only under the following circumstances: ~~(i) emergencies;~~

32 1. Emergencies declared in accordance with § 44-146.18:2 or § 44-146.28; ~~(ii) as~~

33 2. As set forth in the budget bill as defined by ~~§ 2-1-300~~ 2.2-1509, provided that (a) the budget bill contains a
34 description of the surplus materials, the method by which the surplus materials shall be distributed, and the anticipated
35 recipients, and (b) such information shall be provided by the Department to the Department of Planning and Budget in
36 sufficient time for inclusion in the budget bill; ~~(iii) when~~

37 3. When the market value of the surplus materials, which shall be donated for a public purpose, is less than \$200;
38 however, the total market value of all surplus materials so donated by any department, division, institution, or agency shall not
39 exceed five percent of the revenue generated by such department's, division's, institution's, or agency's sale of surplus
40 materials in the fiscal year; or ~~(iv) during~~

41 4. During a local emergency, upon written request of the head of a local government or a political subdivision in the
42 Commonwealth to the head of a department, division, institution, or agency.

43 E. On or before October 1 of ~~every~~ each year, the Department shall prepare, and file with the Secretary of the
44 Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming fiscal year pursuant to
45 subdivision B, 6.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 2-1-457.3~~ 2.2-1125. Proceeds from the sale or recycling of surplus materials.

48 A. The proceeds from the sale or recycling of surplus materials pursuant to ~~§ 2-1-457.2~~ 2.2-1124 shall promptly be
49 deposited into the state treasury and ~~such the~~ deposit reported to the State Comptroller, along with a statement of total
50 proceeds and the amount of ~~such the~~ proceeds derived from the sale or recycling of surplus materials purchased in whole or
51 in part from general fund appropriations.

52 B. At the end of each fiscal quarter, the State Comptroller shall (i) determine the total proceeds derived from the sale
53 of surplus materials purchased in whole or in part from general fund appropriations and direct ~~that the State Treasurer shall to~~
54 transfer fifty percent of the total of such proceeds to the Conservation Resources Fund and (ii) provide copies of the reports
55 furnished to him pursuant to subsection A, or summaries thereof, to the Department of Planning and Budget.

2 C. Based on such reports, or summaries, the Department of Planning and Budget, pursuant to its authority in the
3 ~~Appropriation Act~~ appropriation act, may increase general fund appropriations to any department, division, institution, or
4 pursuant to ~~§ 2-1-457.2 2.2-1124~~. ~~Such~~ The department, division, institution, or agency of the Commonwealth may use the
5 additional appropriations to purchase materials, supplies, or equipment, or to defray the cost of disposing of surplus materials
6 to the extent permitted pursuant to ~~§ 2-1-457.2 2.2-1124~~.

7 D. Departments, divisions, institutions, or agencies may retain the full net profits from the sale of recycled materials
8 provided that a report is filed with the State Comptroller on or before October 1 of each year.

9 E. Departments, divisions, institutions, or agencies meeting management standards prescribed by the Governor may
10 retain the net proceeds from the surplus materials sold pursuant to ~~§ 2-1-457.2 2.2-1124~~. Such retention shall be effective on
11 July 1 following the determination that the department, division, institution, or agency meets the management standards.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2-1-466. Printing of annual reports of state agencies.~~

14 ~~A. The Division shall provide state agencies with technical assistance and advice, as far as may be practicable, in~~
15 ~~the manner and method of preparation of copy for, format of, method of reproduction of, etc., annual reports, whether required~~
16 ~~by statute or otherwise to be submitted to either the Governor or some other official or controlling body, board, commission,~~
17 ~~etc., of the Commonwealth. If the Governor so directs, the Division shall edit for the purpose of reducing and condensing the~~
18 ~~reports, but the content of any annual report constituting all or any part of a formal opinion or decision of any administrative~~
19 ~~agency or tribunal shall not be subject to any editorial change or deletion.~~

20 ~~The cost of printing annual reports shall be borne by the agencies of the government for which said reports are~~
21 ~~printed.~~

22 ~~In the printing of annual reports, as in all classes of the state work, the officer preparing the report or other~~
23 ~~documents shall in all cases be responsible for the matter contained therein.~~

24 ~~B. Each annual report prepared for distribution by any state agency or institution of higher education for which the~~
25 ~~total general fund cost exceeds \$25,000 shall have conspicuously displayed on the front or back of its first two pages: (i) its~~
26 ~~unit cost and (ii) the total cost for the annual report. As used in this subsection, "total cost" includes, but is not limited to, the~~
~~production, mailing and printing expenses incidental to the publication of the document.~~

27 **DRAFTING NOTE:** Technical corrections. This section has been merged into proposed § 2.2-1126 as subsection B and C,
28 respectively.

30 ~~§ 2-1-467.3 2.2-1126. Review and recommendations by Division of Purchases and Supply; printing of annual reports~~
31 ~~of state agencies.~~

32 ~~A. When the Division of Purchases and Supply receives publications from an agency it shall review each the~~
33 ~~publications and furnish each the agency with suggestions concerning the most economical methods of printing, binding and~~
34 ~~mailing each the publications.~~

35 ~~B. The Division shall provide state agencies with technical assistance and advice, as practicable, in the manner and~~
36 ~~method of preparation of copy for, format of, or method of reproduction of, annual reports, whether required by statute or~~
37 ~~otherwise to be submitted to either the Governor or some other official or controlling body, board, commission, or~~
38 ~~instrumentality of the Commonwealth. If the Governor so directs, the Division shall edit for the purpose of reducing and~~
39 ~~condensing the reports, but the content of any annual report constituting all or any part of a formal opinion or decision of any~~
40 ~~administrative agency or tribunal shall not be subject to any editorial change or deletion.~~

41 ~~The cost of printing annual reports shall be borne by the reporting agencies.~~

42 ~~In the printing of annual reports the officer preparing the report or other documents shall in all cases be responsible~~
43 ~~for the matter contained in the report.~~

44 ~~C. Each annual report prepared for distribution by any state agency or institution of higher education for which the~~
45 ~~total general fund cost exceeds \$25,000 shall have conspicuously displayed on the front or back of its first two pages (i) its~~
46 ~~unit cost and (ii) the total cost for the annual report.~~

47 ~~As used in this subsection, "total cost" includes, but is not limited to, the production, mailing and printing expenses~~
48 ~~incidental to the publication of the document.~~

49 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
50 A is § 2.1-467.3, subsection B is § 2.1-466 A, and subsection C is § 2.1-466 B.

51 ~~§ 2-1-467 2.2-1127. Distribution of annual or biennial reports.~~

52 ~~A. Unless otherwise provided by law, the Division of Purchases and Supply shall cause to be distributed by the~~
53 ~~reporting department, agency or institution, the printed volumes of annual or biennial reports as follows:~~

54 1. One or more copies to the Governor, as he may direct;

- 1 2. One copy to the President of the Senate;
- 2 3. Such number of copies not to exceed 100, to The Library of Virginia as may be designated by the Librarian.
- 3 Virginia, ~~pursuant to § 2.1-467.2 for its collection, for the depository systems, and for exchange purposes;~~
- 4 4. One copy to the Clerk of the Senate ~~for the use of the Senate~~ and one copy to the Clerk of the House of
- 5 Delegates ~~for the use of the House~~ their respective uses;
- 6 5. Such number of copies to the Law Library of the University of Virginia as may be designated by the Law Librarian,
- 7 pursuant to § 30-34.9; and
- 8 6. One copy to the ~~Division of Purchases and Supply, Department of General Services.~~
- 9 B. The ~~Division of Purchases and Supply~~ shall distribute to all legislators and agency heads a list of state agencies
- 10 for the purpose of selecting those agencies whose reports they wish to receive. The Division shall also make provision on the
- 11 list for individuals to specify the types of agency reports they wish to receive, including annual or biennial, recurring, major or
- 12 all reports. Agencies shall be informed by the Division as to those individuals who wish to receive their reports and should
- 13 limit the distribution of their reports accordingly.
- 14 C. Any member of the General Assembly or agency head may at any time file with the ~~Division of Purchases and~~
- 15 ~~Supply~~ a request that he not be sent reports from agencies named by him and that his name be deleted from the ~~mailing~~
- 16 distribution lists of such agencies. The Division shall notify all agencies involved.
- 17 D. State agencies shall update their ~~mailing~~ distribution lists annually and shall limit the quantities printed to the
- 18 reasonably foreseeable demand.

19 **DRAFTING NOTE:** Technical corrections. Subdivision A. 3. represents a consolidation of that existing subdivision and the

20 provisions of existing § 2.1-467.2. In subsections C and D, on the recommendation of the Department of General Services,

21 the term "mailing list" has been updated to "distribution list."

22 ~~§ 2.1-467.2. Agencies to furnish copies to The Library of Virginia.~~

23 ~~Every agency shall furnish such number of copies as may be designated by the State Librarian of each of its~~

24 ~~publications at the time of issue to The Library of Virginia for its collection and copies sufficient for the depository system and~~

25 ~~for exchange purposes, not exceeding 100 copies.~~

26 **DRAFTING NOTE:** This section has been merged into proposed § 2.2-1127 in subdivision A. 3. of that section.

27 ~~§ 2.1-468~~ 2.2-1128. Sale of state flag.

28 The ~~Division of Purchases and Supply~~ shall have available at all times flags of the Commonwealth ~~of Virginia~~, to be

29 offered for sale to the public in such manner and cost as the Division may determine.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2.1-467.1. Definitions.~~

32 ~~As used in §§ 2.1-467.2 through 2.1-467.8, "agency" includes every agency, board, commission, office, department,~~

33 ~~division, institution or other entity of any branch of the state government. "Publication" includes all written documents fixed in~~

34 ~~any tangible format which can be understood, reproduced, or otherwise communicated, either directly or with the aid of a~~

35 ~~machine or device, and issued by an agency of the Commonwealth in full or in part at state expense. Publication excludes~~

36 ~~those written documents which apply solely to the agency's administrative and internal operations.~~

37 **DRAFTING NOTE:** Technical corrections. This section, along with other like sections, has been moved to Title 42.1 (as §

38 42.1-19.1) under the duties of the Librarian of Virginia because the moved sections deal with the duties of the Librarian of

39 Virginia.

40 ~~§ 2.1-467.4. Records to be kept by agencies; information to be furnished to Librarian of Virginia upon request.~~

41 ~~Every agency shall maintain such records of the cost of printing and distributing publications, and the revenue~~

42 ~~therefrom, as are necessary to disclose the actual costs of such publication and mailing and the revenue received therefrom.~~

43 ~~In addition to other expenses, there shall be included in the cost of publication the cost of purchased materials, staff time and~~

44 ~~the expenses involved in printing and mailing any such publication. Each agency shall furnish to the Librarian of Virginia such~~

45 ~~records of costs of printing and distribution, along with such additional information relating to cost of printing and distribution~~

46 ~~of such publications as shall be specifically requested by the Librarian of Virginia.~~

47 **DRAFTING NOTE:** Technical corrections. This section has been moved to proposed § 2.2-609 A in Article 1 (General

48 Provisions) of Chapter 6 at the beginning of this Part C.

49 ~~§ 2.1-467.5. Annual listing.~~

50 ~~The Librarian of Virginia shall compile an annual listing of all publications printed by each state agency during~~

51 ~~previous fiscal year, to include the quantity of each publication printed and the costs to print and distribute each publicatio~~

1 **DRAFTING NOTE:** Technical corrections. This section has been moved to Title 42.1 under the duties of the Librarian of
2 Virginia as § 42.1-19.2.

3 ~~§ 2.1-467.7. Librarian of Virginia to prepare and publish catalog.~~

4 ~~The Librarian of Virginia shall prepare, publish and make available annually a catalog of publications printed by state~~
5 ~~agencies. Each such publication shall be indexed by subject, author and issuing agency. The date of publication of each~~
6 ~~listed publication shall be noted in the catalog together with information showing, in appropriate cases, that library copies only~~
7 ~~are available. To the extent such information is available, the catalog shall set forth the price charged, if any, of each~~
8 ~~publication and how and where the same may be obtained.~~

9 **DRAFTING NOTE:** Technical corrections. This section has been moved to Title 42.1 under the duties of the Librarian of
10 Virginia as § 42.1-19.3.

11 ~~§ 2.1-467.8. Distribution of catalog.~~

12 ~~The catalog shall be made available without cost to persons indicating a continuing interest in such catalog. Copies~~
13 ~~sent out of state shall be on an exchange basis or at a price sufficient to equal the unit cost of printing and mailing;~~
14 ~~complimentary copies may be made available by the Librarian of Virginia.~~

15 **DRAFTING NOTE:** Technical corrections. This section has been moved to Title 42.1 under the duties of the Librarian of
16 Virginia as § 42.1-19.4.

17 Article 4.

18 Division Of Engineering And Buildings.

19 ~~§ 2.1-480 2.2-1129. Division of Engineering and Buildings transferred.~~

20 ~~A. The~~ Within the Department shall be established the Division of Engineering and Buildings, heretofore existing
21 ~~within the office of the Governor, is hereby transferred to the Department of General Services, (the "Division"), which shall~~
22 ~~exercise the powers and duties described in this article through the Division of Engineering and Buildings.~~

23 B. The Division shall have charge of all public buildings, grounds and all other property at the seat of government not
24 placed in the charge of others, and shall protect such properties from depredations and injury.

25 C. Except as provided in § 2.2-1130, the Division shall have custody, control and supervision of the Virginia War
26 Memorial Carillon.

27 D. To execute the duties imposed by this article, the Division may obtain information and assistance from other state
28 agencies and institutions.

29 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections; subsection
30 A is § 2.1-480, subsections B and C are § 2.1-481, and subsection D is § 2.1-492.

31 ~~§ 2.1-481 2.2-1130. Care of public buildings and property; Virginia War Memorial Carillon.~~

32 ~~The Division of Engineering and Buildings shall have charge of all public buildings, grounds and all other property at~~
33 ~~the seat of government not placed in the charge of others, and shall protect such properties from depredations and injury.~~

34 ~~The Division shall have custody, control and supervision of the Virginia War Memorial Carillon.~~

35 ~~A. Notwithstanding the foregoing the provisions of subsections B and C of § 2.2-1129, the Director of the Department~~
36 ~~of General Services and the City of Richmond shall enter into an agreement which that would allow the City to permit the use~~
37 ~~of or access to the Virginia War Memorial Carillon for such short-term events as the City deems appropriate. The agreement~~
38 ~~(i) may allow the City to charge and collect a fee for such use and to retain any such fee, and (ii) shall require the City to~~
39 ~~provide a report by December 1 of each year to the Director of the Department of General Services, in a form approved by the~~
40 ~~Director, detailing (a) the funds collected by the City for use of the Carillon for the preceding year; (b) the funds made~~
41 ~~available to the City from all sources; and (c) the City's expenditures for upkeep, maintenance, and improvement of the~~
42 ~~facility.~~

43 ~~B. Notwithstanding the provisions of subsection C-D of § 2.1-512- 2.2-1156 or any other law to the contrary, the~~
44 ~~proceeds from the lease or other conveyance of an interest in the Virginia War Memorial Carillon by the Department of~~
45 ~~General Services shall be paid to the City to be applied with other City funds for the cost of upkeep, maintenance, and~~
46 ~~improvement of the Virginia War Memorial Carillon. The proceeds are hereby appropriated and shall be paid by the~~
47 ~~Comptroller to the City as soon as practicable after receipt by the Commonwealth.~~

48 ~~C. All funds retained by the City or transferred to the City in accordance with this section and all fees collected by the~~
49 ~~City from use of or access to the Virginia War Memorial Carillon shall be paid into the City's treasury to the credit of a special~~
50 ~~fund which that shall be used by the City solely for the upkeep, maintenance, and improvement of the Virginia War Memorial~~
51 ~~Carillon. Use of the special fund for any other purpose is prohibited.~~

1 D. Nothing in this section shall abrogate the obligations of the City of Richmond to provide for the upkeep and
2 maintenance of the Carillon.

3 **DRAFTING NOTE:** Technical corrections. Subsections A and B of this section have been merged into proposed § 2.2-1129
4 as new subsections B and C.

5 § ~~2.1-482~~ 2.2-1131. Maintenance and utilization standards.

6 The Division may develop, in cooperation with state institutions and agencies concerned, maintenance and
7 utilization standards for state buildings, and provide functional direction and service to institutions and agencies of the state
8 government with respect to their policies, practices and administration of buildings and grounds. ~~Such maintenance and~~
9 ~~utilization. The standards shall include, but are not be limited to, advice and appropriate provisions for the installation and~~
10 ~~utilization of approved water-conservation devices for the avoidance of wasting water throughout the facilities owned by the~~
11 ~~Commonwealth. This effort on the part of the Division shall be in cooperation with other appropriate agencies of the~~
12 ~~Commonwealth. The Division shall review all maintenance and utilization standards and plans of such state institutions and~~
13 agencies.

14 **DRAFTING NOTE:** Technical corrections only. The next to last sentence has been deleted as redundant of first sentence.

15 § ~~2.1-483.1~~ 2.2-1132. Administration of capital outlay construction.

16 The ~~Department of General Services through its Division of Engineering and Buildings~~ shall provide assistance in
17 the administration of capital outlay construction projects set forth in the ~~Appropriation Act~~ appropriation act, other than
18 highway construction undertaken by the Department of Transportation and the acquisition or improvement of specialized
19 cargo-handling equipment and related port infrastructure including, but not limited to, port construction, renovation, and
20 demolition ~~which that~~ is required in a timely manner to meet market demands to enhance commerce through the Virginia Port
21 Authority, the review and approval of plans and specifications, and acceptance of completed projects.

22 The ~~Department of General Services Division~~ may ~~also~~ establish standards, as needed, for construction by the
23 Commonwealth and may, with the advice of the Attorney General, establish standard contract provisions and procedures for
24 the procurement and administration of construction and for the procurement and administration of architectural and
25 engineering services relating to construction, which shall be used by all departments, agencies and institutions of the
26 Commonwealth. ~~Such~~ The standards may provide for incentive contracting which that offers a contractor whose bid is
27 accepted the opportunity to share in any cost savings realized by the Commonwealth when project costs are reduced by ~~each~~
28 the contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project
29 engineer or architect for determining ~~such the~~ cost savings shall be paid as a separate cost and shall not be calculated as
30 part of any cost savings.

31 ~~The term "construction" as used in~~ For purposes of this section, "construction" shall include new construction,
32 reconstruction, renovation, restoration, major repair, demolition and all similar work upon buildings and ancillary facilities
33 owned or to be acquired by the Commonwealth. It ~~does shall~~ not include buildings or other facilities ancillary to the use of
34 state highways ~~which that~~ are located within the right-of-way of any state highway, or assets for use by the Virginia Port
35 Authority within the boundaries of property owned or leased by the Virginia Port Authority.

36 **DRAFTING NOTE:** Technical corrections only.

37 § ~~2.1-483.1:1~~ 2.2-1133. Use of value engineering.

38 A. The ~~Department of General Services, through its Division of Engineering and Buildings,~~ shall ensure that value
39 engineering is employed for any capital project costing more than five million dollars. Value engineering may also be used for
40 any project costing five million dollars or less. For purposes of this section, "value engineering" means a systematic process
41 of review and analysis of a capital project by a team of persons not originally involved in the project. Such team, which shall
42 include appropriate professionals licensed in accordance with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1, may offer
43 suggestions that would improve project quality and reduce total project cost by combining or eliminating inefficient or
44 expensive parts or steps in the original proposal or by totally redesigning the project using different technologies, materials, or
45 methods.

46 B. The Director of the ~~Department of General Services~~ may waive the requirements of this section for any proposed
47 capital project for compelling reasons. Any ~~such~~ waiver shall be in writing, state the reasons for the waiver, and apply only to
48 a single capital project. On or before September 15 of each year, the Director of the ~~Department of General Services~~ shall
49 report to the Governor and the General Assembly on the (i) number and value of the capital projects where value engineering
50 was employed and (ii) identity of the capital projects for which a waiver of the requirements of this section was granted,
51 including a statement of the compelling reasons for granting the waiver. ~~Such reports~~ The report shall cover projects
52 completed or for which a waiver was granted within the previous fiscal year.

53 C. Notwithstanding any law to the contrary, the provisions of this section shall apply to public institutions of higher
54 education in Virginia.

55 **DRAFTING NOTE:** Technical corrections only.

§ 2.1-483.1:2 2.2-1134. Assistance to the Design-Build/Construction Management Review Board.

The Director of the Division of ~~Engineering and Buildings~~ or his designee shall serve as a member of the Design-Build/Construction Management Review Board (the Review Board) created pursuant to ~~§ 41-41.2:3 2.2-2404~~. The Division shall provide staff support to the Review Board in the conduct of its duties in accordance with ~~§ 41-41.2:4 2.2-2405~~.

DRAFTING NOTE: Technical corrections only.

§ 2.1-483.2 2.2-1135. Information on equipment utilizing wood wastes.

The Division shall assemble and maintain information relevant to a determination by any department, agency, or institution regarding the suitability of using a central boiler or other heating equipment ~~which that~~ is fueled by wood wastes, including but not limited to: the (i) identity of manufacturers and suppliers of wood waste handling and burning equipment, (ii) capital and operating costs of such equipment, (iii) associated air emissions and solid waste disposal requirements, and (iv) fuel storage requirements. The information shall be distributed to any department, agency, or institution with a construction project specifying a central boiler or heating plant, and to personnel involved in the procurement and administration of architectural and engineering services relating to such construction project. For purposes of this section, "wood wastes" means raw wood by-products from wood processing and wood product manufacturing industries, including sawdust, chips, bark, and planer shavings. ~~The information shall be distributed to any department, agency, or institution with a construction project specifying a central boiler or heating plant, and to personnel involved in the procurement and administration of architectural and engineering services relating to such construction projects.~~

DRAFTING NOTE: Technical corrections only.

§ 2.1-484 2.2-1136. Review of easements; maintenance of real property records.

A. The Division shall review all deeds, leases and contractual agreements with utilities to serve state institutions or agencies that require the approval of the Governor, as well as all easements and rights-of-way granted by institutions and agencies to public and private utilities.

B. The Division shall be responsible for the maintenance of real property records of all state institutions and agencies, except records of real property acquired by the Department of Transportation for the construction of highways, and may have such boundary, topographic and other maps prepared as may be ~~deemed~~ necessary.

DRAFTING NOTE: Technical corrections only.

§ 2.1-485 2.2-1137. Location, construction or lease of state consolidated office buildings.

Subject to the authority of the Virginia Public Buildings Board, the Division shall be responsible for the location and construction or lease of state consolidated office buildings at the seat of government and throughout the Commonwealth for joint use by state agencies, departments and institutions.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-486. Public Buildings Commission continued as Public Buildings Board.~~

~~The Virginia Public Buildings Commission is continued and shall hereafter be known as the Virginia Public Buildings Board. The Board shall consist of nine members, three of whom shall be appointed by the Speaker of the House of Delegates from the membership of the House of Delegates, two of whom shall be appointed by the Committee on Privileges and Elections of the Senate from the membership of the Senate; such members shall be appointed for a term to expire on the date of the convening of the first regular session of the General Assembly in even-numbered years following their appointments. The Governor shall appoint three members of the Board from the public at large, who shall serve for terms coincident with his own. The Director of the Department of General Services shall be an ex officio member of the Board.~~

DRAFTING NOTE: Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards, Commissions, etc. under the "Boards" heading as § 2.2-2434 B and C.

~~§ 2.1-487. Board to assist and advise Governor and Department.~~

~~The Board shall assist and advise the Governor and the Department of General Services in the preparation and maintenance of a long range site plan at the seat of government, and in the determination of need for the acquisition of land, buildings and improvements, through purchases or construction.~~

DRAFTING NOTE: Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards, Commissions, etc. under the "Boards" heading as § 2.2-2434 A.

~~§ 2.1-488. Expenses of members of Board.~~

~~The members of the Board shall receive their actual expenses incurred in the performance of the duties imposed by this article to be paid from the funds transferred from other state departments, agencies or institutions under § 2.1-403, or from any funds which may be appropriated or made available for such purposes.~~

1 **DRAFTING NOTE:** Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards,
2 Commissions, etc. under the "Boards" heading as § 2.2-2434 E.

3 ~~§ 2.1-488.1. Art and Architectural Review Council continued as Art and Architectural Review Board; members and
4 officers; travel expenses; quorum.~~

5 ~~The Art and Architectural Review Council within the Department of General Services is continued and shall hereafter
6 be known as the Art and Architectural Review Board. The Board shall consist of the Director of the Department of Historic
7 Resources, or his designee, serving as an ex officio member and five citizen members, appointed by the Governor. One shall
8 be appointed from a list of architects nominated by the governing board of the Virginia Society of the American Institute of
9 Architects; one from a list of persons nominated by the governing board of the University of Virginia; one from a list of persons
10 nominated by the board of trustees of the Virginia Museum of Fine Arts; and two from the Commonwealth at large, one of
11 whom shall be a painter or sculptor. The members of the Board shall be appointed for terms of four years each, except
12 appointments to fill vacancies, which shall be for the unexpired terms. No member shall serve for more than two consecutive
13 four-year terms, except that any member appointed to the unexpired term of another shall be eligible to serve two consecutive
14 four-year terms in his own right. The Governor shall have authority to fill all vacancies in the manner of the original
15 appointments. The members of the Board shall serve without compensation, but shall be entitled to receive actual and
16 necessary travel expenses. From their own members they shall elect such officers as may be deemed proper. Three
17 members of the Board shall constitute a quorum.~~

18 **DRAFTING NOTE:** Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards,
19 Commissions, etc. under the "Boards" heading as § 2.2-2400 A through D.

20 ~~§ 2.1-488.2:1. Biennial report.~~

21 ~~The Board shall submit a biennial report to the Governor and General Assembly on or before October 1 of each
22 even numbered year. The biennial report shall be distributed in accordance with the provisions of § 2.1-467.~~

23 **DRAFTING NOTE:** Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards,
24 Commissions, etc. under the "Boards" heading as § 2.2-2400 F.

25 ~~§ 2.1-488.3. Meaning of term "work of art".~~

26 ~~The term "work of art" as used in this chapter shall apply to and include all paintings, mural decorations, stain
27 glass, statues, bas-reliefs, tablets, sculptures, monuments, fountains, arches or other structure of a permanent char
28 intended for ornament or commemoration.~~

29 **DRAFTING NOTE:** Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards,
30 Commissions, etc. under the "Boards" heading as § 2.2-2401 B.

31 ~~§ 2.1-488.4. Governor's approval of works of art; removal, etc.; structures, fixtures and works of art placed on or
32 extending over state property.~~

33 ~~A. Works of art.—Hereafter no work of art shall become the property of the Commonwealth by purchase, gift or
34 otherwise, unless such work of art or a design thereof, together with its proposed location, shall have been submitted to and
35 approved by the Governor acting with the advice and counsel of the Council; nor shall any work of art, until so submitted and
36 approved, be contracted for, placed in or upon or allowed to extend over any property belonging to the Commonwealth. No
37 existing work of art owned by the Commonwealth shall be removed, relocated or altered in any way without submission to the
38 Governor; provided, that the foregoing provisions shall not apply to any portrait, tablet or work of art portraying, or pertaining
39 to, a member or former member of the Supreme Court, presented to, or acquired by, the Court and displayed in that part of
40 any building or buildings under the direct supervision and jurisdiction of the Court nor shall they apply to any portrait, tablet or
41 work of art acquired by the Virginia Museum of Fine Arts or museums operated in conjunction with art or architectural
42 departments at state colleges or universities.~~

43 ~~B. Structures and fixtures placed on or extending over state property.—No construction or erection of any building or
44 any appurtenant structure of any nature, which is to be placed on or allowed to extend over any property belonging to the
45 Commonwealth, and no construction or erection of any bridge, arch, gate, fence, or other structure or fixture intended
46 primarily for ornamental or memorial purposes, and which is to be paid for, either wholly or in part by appropriation from the
47 state treasury, and, which is to be placed on or allowed to extend over any property belonging to the Commonwealth, shall be
48 begun, unless the design and proposed location thereof shall have been submitted to the Governor and its artistic character
49 approved in writing by him acting with the advice and counsel of the Council, unless the Governor shall have failed to
50 disapprove in writing the design within thirty days after its submission. Furthermore, no existing structure of the kinds named
51 and described in this subsection, owned by the Commonwealth, shall be removed, remodeled or added to, nor shall any
52 appurtenant structure be attached thereto without submission to the Governor and the artistic character of the proposed new
53 structure approved in writing by him acting with the advice and counsel of the Council, unless the Governor shall have failed
54 to disapprove in writing the design within thirty days after its submission.~~

1 ~~C. Works of art placed on or extending over state property. No work of art not owned by the Commonwealth shall~~
2 ~~be placed in or upon or allowed to extend over any property belonging to the Commonwealth for a period of more than two~~
3 ~~years unless such work of art or a design thereof shall have been submitted to and approved by the Governor acting with the~~
4 ~~advice and counsel of the Council, provided that nothing in this subsection C shall have application to the Virginia Museum of~~
5 ~~Fine Arts or museums operated in conjunction with art or architectural departments at state colleges and universities.~~

6 ~~D. Pending litigation. Nothing herein shall affect pending litigation.~~

7 **DRAFTING NOTE:** Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards,
8 Commissions, etc. under the "Boards" heading as § 2.2-2402.

9 ~~§ 2.1-488.5. Works of art accepted by Governor; approval by Council.~~

10 ~~The Governor is authorized to accept, in the name of the Commonwealth, gifts to the Commonwealth of works of art~~
11 ~~as defined in § 2.1-488.3. But no work of art shall be so accepted until submitted to the Council or otherwise brought to its~~
12 ~~attention for its advice and counsel to the Governor.~~

13 ~~Nothing herein shall affect pending litigation.~~

14 **DRAFTING NOTE:** Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards,
15 Commissions, etc. under the "Boards" heading as § 2.2-2401 A.

16 ~~§ 2.1-488.6. Assistance to Council by Division.~~

17 ~~The Division shall provide assistance to the Art and Architectural Review Board in the undertaking of its~~
18 ~~responsibilities.~~

19 **DRAFTING NOTE:** Technical corrections. This section has been moved to Subtitle I, Part D - State Authorities, Boards,
20 Commissions, etc. under the "Boards" heading as § 2.2-2400 E.

21 ~~§ 2.1-489 2.2-1138. Planning and construction by Division; exemption.~~

22 ~~A. The Department of General Services, through the Division of Engineering and Buildings shall, subject to written~~
23 ~~approval of the Governor:~~

24 1. Prepare and, when necessary to meet changing conditions, amend a long-range site plan for the location of all
25 state buildings, and related improvements related thereto, in Capitol Square and its immediate environs, and for such other
26 areas providing comparable facilities for the seat of government in or adjacent to the City of Richmond as the Governor shall
27 direct;

28 2. Acquire with ~~such funds as may be appropriated~~ for that purpose the necessary land for effectuation of the plan;
29 and

30 3. Direct and control the execution of all authorized projects for the construction of state buildings and related
31 improvements in or adjacent to the City of Richmond.

32 ~~B. The Governor may exempt from the provisions of subsection A those buildings and improvements that, in his~~
33 ~~opinion, should be planned and constructed under the direction of other state agencies or institutions or included in site plans~~
34 ~~prepared by such other agencies or institutions.~~

35 ~~C. No building for state use shall be erected or acquired nor other property acquired for state use, in Capitol Square~~
36 ~~and its immediate environs, or in such other areas as may be included in the site plan required by subsection A unless it has~~
37 ~~been approved by the Governor as conforming to the site plan.~~

38 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
39 A is § 2.1-489, subsection B is § 2.1-490, and subsection C is § 2.1-491.

40 ~~§ 2.1-490. Exemptions from § 2.1-489.~~

41 ~~The Governor is authorized to exempt from the provisions of § 2.1-489 those buildings and improvements which, in~~
42 ~~his opinion, should be planned and constructed under the direction of other state agencies and institutions or included in site~~
43 ~~plans prepared by such other agencies or institutions.~~

44 **DRAFTING NOTE:** Technical corrections. This section appears as subsection B in the proposed § 2.2-1138.

45 ~~§ 2.1-491. Buildings and property to conform to site plan.~~

46 ~~No building for state use shall be erected or acquired nor other property acquired for state use, in Capitol Square~~
47 ~~and its immediate environs, or in such other areas as may be included in the site plan required by § 2.1-489, unless it shall~~
48 ~~first have been approved by the Governor as conforming to the site plan.~~

49 **DRAFTING NOTE:** Technical corrections. This section appears as subsection C of proposed § 2.2-1138.

50 ~~§ 2.1-492. Information and assistance from other state agencies and institutions.~~

1 To execute the duties imposed by this article, the Division may obtain information and assistance from other state
2 agencies and institutions.

3 **DRAFTING NOTE:** Technical corrections. This section appears as subsection D of proposed § 2.2-1129.

4 ~~§ 2.1-493 2.2-1139.~~ Transfer of funds; acceptance of donations.

5 The Governor may transfer to the Department of General Services for use by the Division of Engineering and
6 Buildings funds appropriated to any state department, agency or institution for the construction, alteration, reconstruction and
7 repair of any building to be erected or acquired for the use of such department, institutional agency, or for the acquisition of
8 land therefor for such building, or for planning, architectural, engineering or other studies in connection therewith, and may
9 accept funds donated for such purposes.

10 **DRAFTING NOTE:** Technical corrections only.

11 ~~§ 2.1-494.~~ Authority of existing special commissions not affected.

12 The provisions of this article shall not be construed to abolish or limit the authority of any special commission, now in
13 existence, specifically charged by law with the acquisition or construction of any building for the use or occupancy of any
14 state department or agency.

15 **DRAFTING NOTE:** Technical corrections. This section has been deleted as obsolete. Chapter 672 of the 1977 Acts of
16 Assembly added this provision when the Department of General Services was reorganized.

17 ~~§ 2.1-495 2.2-1140.~~ Assignment of office space.

18 The Division shall be responsible for the assignment of office space to agencies at the seat of government and
19 buildings under control of the Division, and for the establishment of standards for the utilization and furnishing of such space.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 2.1-496 2.2-1141.~~ Purchase of furniture for state buildings; repairs to buildings and furniture; surplus furniture.

22 The Division shall cause to be purchased through the Division of Purchases and Supply with the approval of the
23 Governor, all such furniture as may be required in for the buildings within the master site plan of Capitol Square, ~~excepting~~
24 ~~except~~ those assigned for use by agencies and departments, ~~and, The Division shall~~ have all such repairs made to either
25 buildings or furniture thereof, as may be approved by the Governor; ~~the, The cost of such the repairs and furniture to shall~~ be
26 paid with such funds as approved by the Governor. The Division shall declare surplus that furniture which ~~that~~ may no longer
27 be satisfactorily used.

28 **DRAFTING NOTE:** Technical corrections only.

29 ~~§ 2.1-497 2.2-1142.~~ Furniture for Executive Mansion.

30 The Division shall requisition for the Executive Mansion such the furniture as may be required by the Governor, and
31 cause to be sold such old furniture as the Governor may direct, taking care not to exceed in expenditures such appropriated
32 sums as may be appropriated therefor, in addition to the proceeds of old furniture sold. An account both of the sales and
33 purchases shall be returned to the Comptroller before any warrant shall issue for any part of the sum appropriated, ~~and then~~
34 ~~the, The~~ warrant shall ~~only~~ be ~~only~~ so much as by the account ~~shall appear~~ ~~appears~~ to be proper.

35 **DRAFTING NOTE:** Technical corrections only.

36 ~~§ 2.1-498 2.2-1143.~~ Services for Capitol and other state buildings facilities.

37 The Division of Engineering and Buildings shall contract for water, electricity, gas, sewer service, fuel for heating,
38 and such other utility services as may be required to serve the buildings facilities within the master site plan of Capitol Square
39 and for such other buildings facilities as the Governor may designate. The cost of such the services shall be paid out of funds
40 appropriated therefor for that purpose.

41 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Department of General Services, the term
42 "buildings" was replaced with "facilities" as there are other metered items in addition to buildings such a boat ramps, parking
43 lots, and ball fields.

44 ~~§ 2.1-499 2.2-1144.~~ Control of Capitol Square and other property at seat of government.

45 A. The Department of General Services, through the Division of Engineering and Buildings, under the direction and
46 control of the Governor, shall have control of the Capitol Square with the expense of the maintenance and control to be paid
47 out of the fund appropriated for that purpose. The Division shall keep the keys of the Capitol Building and shall take charge of
48 all the rooms in the Capitol Building, except in those areas under the control of the legislature, the public grounds and all
49 other property at the seat of government not placed in specific charge of others. The Division shall have no control ~~not~~ ~~or~~
50 responsibility with respect to the old and new Senate chambers, the old and new halls of the House of Delegates, the

Rotunda, the offices of the Clerks of the Senate and House of Delegates, the legislative committee rooms, the enrolling office, or any other area specifically designated as legislative space. The Division ~~is to~~ shall do such work and make such repairs for the respective bodies of the General Assembly as may be requested by the clerks thereof with appropriate reimbursement of expenses to the Division.

B. The Division shall have all the furniture and the rooms in the Capitol, other than the rooms excepted in subsection A, the open parts of the Capitol, the public grounds, and all other property at the seat of government not placed in the charge of others, kept in proper order at all times.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 2.1-499 and subsection B is § 2.1-500.

~~§ 2.1-500. Rooms in Capitol and other property to be kept orderly and clean.~~

~~The Division shall have all the rooms in the Capitol, other than the rooms excepted in § 2.1-499, and the furniture thereof, and also the open parts of the Capitol, the public grounds and all other property at the seat of government not placed in the charge of others, kept in proper order and cleanliness at all times.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-1144.

~~§ 2.1-504~~ 2.2-1145. Inventory of property and Governor's house; custody of house and property pending election of Governor.

When the ~~term~~ term of office of any Governor ~~shall expire~~ expires, or he shall die or resign, the Division shall take an inventory of all the public property and furniture in the Governor's house and ~~outhouses-outbuildings~~ and deliver ~~such the~~ inventory to the Comptroller, to be preserved in his office; ~~and~~ The Division shall, unless the house ~~be is~~ occupied by the Lieutenant Governor, have charge of the house, furniture, and other public property, until a Governor ~~shall be is~~ elected and ~~take takes~~ possession thereof.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-502. Quarters for veterans' organizations.~~

~~The Division shall, when practicable, provide in the state office buildings, or other office space owned or under lease by the Commonwealth, quarters for all organizations composed entirely of war veterans, upon the application of the department commander thereof. Such quarters shall consist of two contiguous rooms which shall be for the exclusive use of the state or department headquarters of such organizations.~~

DRAFTING NOTE: On the recommendation of the Department of General Services, this section has been deleted because, as a matter of practice, DGS has not and currently is not providing any offices to veterans' organizations. This section was enacted in 1932 (HB 72).

~~§ 2.1-503~~ 2.2-1146. Division may lease certain state property; preparation of leases by Attorney General; disposition of rentals.

The Division ~~of Engineering and Buildings~~, with the prior written approval of the Governor ~~first obtained~~, may lease property owned by the Commonwealth ~~which has been or is hereafter and~~ acquired for the development of the state site plan for permanent state office buildings and related structures and facilities lying near the Capitol Square. All such leases shall be prepared by the Attorney General; ~~they~~ The leases may run for such time as prescribed by the Governor ~~may prescribe~~ and shall be for such appropriate rental as appears proper. All rentals received ~~therefrom~~ shall be paid into the general fund of the state treasury.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-504~~ 2.2-1147. Definitions.

As used in §§ ~~2.1-504.1 through 2.1-512~~ 2.2-1148 through 2.2-1156, unless the context requires a different meaning ~~clearly appears from the context~~:

"Institutions" shall include, but not be limited to, any corporation owned by the Commonwealth and subject to the control of the General Assembly.

"Property" shall mean an interest in land and any improvements thereon held by the Commonwealth and under the control of or occupied by any of its departments, agencies or institutions, but shall not include (i) real estate or rights-of-way acquired by the Department of Transportation for the construction of highways and (ii) ungranted shores of the sea, marsh and meadowlands as defined in § 28.2-1500.

"Recommend," "recommended," or "recommendation," when used with reference to a recommendation by the Department of General Services to the Governor, ~~shall mean~~ means to advise either for or against a proposed action.

DRAFTING NOTE: Technical corrections only.

1 ~~§ 2.1-504.1 2.2-1148.~~ Approval of actions; conveyances in name of the Commonwealth.

2 A. All actions to be taken or approvals to be given by the Governor or the Attorney General pursuant to §§ ~~2.1-504~~
3 ~~through 2.1-512 2.2-1149 through 2.2-1156~~ may be taken or given by the Governor or his designee, or by the Attorney
4 General or one of his deputies or assistant attorneys general.

5 B. All conveyances of any interest in property to or from the Commonwealth or any state department or agency
6 ~~thereof or any state institution thereof which that~~ is not a corporation, shall be in the name of the Commonwealth and shall
7 designate the department, agency or institution in control or possession of the property in the following manner:
8 "Commonwealth of Virginia, Department of (name of department, agency or institution, or other appropriate name)." All
9 interests in property conveyed to any department, agency or institution of the Commonwealth, whether past or future, is and
10 shall be the property of the Commonwealth. Conveyance of an interest in property on behalf of the Commonwealth by a
11 department, agency or institution other than that which acquired title on behalf of the Commonwealth shall not create a cloud
12 upon the title.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2.1-504.2 2.2-1149.~~ Department to review proposed acquisitions of real property; approval by the Governor;
15 exceptions.

16 Notwithstanding any provision of law to the contrary, no state department, agency or institution shall acquire real
17 property by gift, lease, purchase or any other means ~~whatsoever~~ without following the guidelines promulgated adopted by the
18 Department of ~~General Services~~ and obtaining the prior approval of the Governor. ~~The Department of General Services~~ shall
19 review every proposed acquisition of real property by gift, lease, purchase or any other means ~~whatsoever~~ by any
20 department, agency or institution of the Commonwealth and recommend either approval or disapproval of ~~such the~~
21 transactions to the Governor based on cost, demonstrated need, and compliance with the ~~aforecaid~~ Department's guidelines.

22 The provisions of this section shall not apply to the (i) acquisition of real property for open space preservations
23 pursuant to the purposes of § 10.1-1800 and subdivision A, 4, of § 10.1-2204, if it does not require as a condition of
24 acceptance, an appropriation of any state funds for the continued maintenance of such property, ~~for the;~~ (ii) acquisition of
25 easements pursuant to the purposes of §§ 10.1-1020 and 10.1-1021 or §§ 10.1-1700, 10.1-1702, and 10.1-1702;
26 (iii) acquisition through the temporary lease or donation of real property for a period of six months or less duration, ~~or for the;~~
27 or (iv) acquisition of real property for the construction, improvement or maintenance of highways and transportation facilities
28 and purposes incidental thereto by the Department of Transportation; however, acquisitions of real property by the
29 Department of Transportation for office space, district offices, residencies, area headquarters, ~~and or~~ correctional facility
30 shall be subject to ~~such the~~ Department's review and the Governor's approval.

31 **DRAFTING NOTE:** Technical corrections only.

32 ~~§ 2.1-504.3 2.2-1150.~~ Conveyance and transfers of real property by state agencies; approval of Governor and
33 Attorney General.

34 A. When it is deemed to be in the public interest, ~~property~~

35 1. Property owned by the Commonwealth may be sold, leased or other interests therein conveyed to political
36 subdivisions, public authorities, or the federal government, for such consideration as is deemed proper, ~~upon the written~~
37 ~~approval of the Governor, who shall have first considered the written recommendations of the Director of the Department of~~
38 ~~General Services. The Attorney General shall approve the form of the instruments prior to execution.~~

39 ~~B. When it is found to be in the public interest, property; and~~

40 2. Property owned by the Commonwealth and held in the possession of a department, agency or institution of the
41 Commonwealth may be transferred to the possession of another department, agency or institution of the Commonwealth by
42 the execution of an agreement between the heads of such departments, agencies or institutions, ~~upon the written approval of~~
43 ~~the Governor, who shall have first considered the written recommendations of the Director of the Department of General~~
44 ~~Services. The Attorney General shall approve the form of the instruments prior to execution.~~

45 B. No transaction authorized by this section shall be made without the prior written recommendation of the
46 Department to the Governor, the written approval of the Governor of the transaction itself, and the approval of the Attorney
47 General as to the form of the instruments prior to execution.

48 **DRAFTING NOTE:** Technical corrections only. Subsection B has been added for consistency to clarify all conveyances of
49 state property require the approval of the Governor and the Attorney General. The text of subsection B comes from existing §
50 2.1-504.4.D.

51 ~~§ 2.1-504.4 2.2-1151.~~ Conveyance of easements and appurtenances thereto to cable television companies, utility
52 companies, public service companies, political subdivisions by state departments, agencies or institutions; communication
53 towers.

54 A. Any state department, agency or institution, through its executive head or governing board ~~as the case may be~~
55 ~~authorized to~~ may convey to public utility companies, public service corporations or companies, political subdivisions or ca

1 television companies, right-of-way easements over property owned by the Commonwealth and held in its possession and any
2 wires, pipes, conduits, fittings, supports and appurtenances thereto for the transmission of electricity, telephone, cable
3 television, water, gas, steam, or sewage placed on, over or under ~~such the~~ property for such consideration as the executive
4 head or governing board of the agency ~~shall deem~~ deems proper, when such conveyance is deemed to be in the public
5 interest.

6 B. Any state department, agency or institution having responsibility for a state-owned office building, through its
7 executive head or governing board ~~as the case may be, shall be authorized to, may~~ lease space to a credit union in ~~such the~~
8 building for the purpose of providing credit union services ~~which that~~ are readily accessible to state employees. ~~Any such~~ The
9 lease shall be for a term of not more than five years, with annual renewals or new leases permitted thereafter. The
10 department, agency or institution responsible for the building may ~~at its discretion~~ forego all rent or charge less than the fair
11 market value.

12 C. When it is deemed to be in the public interest, and subject to guidelines ~~promulgated~~ adopted by the Department
13 of ~~General Services~~, property owned by the Commonwealth may be sold or leased or other interests or rights therein granted
14 or conveyed to political subdivisions or persons providing communication or information services for the purpose of erecting,
15 operating, using or maintaining communication towers, antennas, or other radio distribution devices. If any tower proposed ~~for~~
16 erection to be erected on property owned by the Commonwealth is to be used solely by private persons providing
17 communication or information services, and there is no immediate use ~~thereof~~ planned or anticipated by any department,
18 agency or institution of the Commonwealth or political subdivision, the guidelines shall provide a means to obtain comments
19 from the local governing body where the property is located. The conveyances shall be for such consideration as the Director
20 of the Department of ~~General Services~~ deems appropriate, and may include shared use of ~~such the~~ facilities by other political
21 subdivisions or persons providing the same or similar services, and by departments, agencies, or institutions of the
22 Commonwealth.

23 D. No transaction authorized by this section shall be made without the prior written recommendation of the
24 Department of ~~General Services~~ to the Governor, the written approval of the Governor of the transaction itself, and the
25 approval of the Attorney General as to the form of the instruments prior to execution.

26 **DRAFTING NOTE:** Technical corrections only.

27 ~~§ 2.1-504.5~~ 2.2-1152. Conveyances to Department of Transportation by state institutions or public corporations
28 owned by Commonwealth.

29 Any state institution or public corporation whose funds and property are owned solely by the Commonwealth ~~is~~
30 authorized may through its governing board ~~to convey to the Commonwealth of Virginia; Department of Transportation, after~~
31 having obtained the written recommendation of the Department of General Services to the Governor and the written approval
32 of the Governor, such the lands as may be necessary for highway purposes or other ~~incidental~~ incidental uses ~~incident~~
33 thereto, either for such consideration ~~as shall be~~ deemed proper or in exchange for other lands, and to execute the
34 instruments necessary to effectuate the conveyance, ~~such instruments to be subject to the approval of the Attorney General~~
35 as to form.

36 No transaction authorized by this section shall be made without the prior written recommendation of the Department
37 to the Governor, the written approval of the Governor of the transaction itself, and the approval of the Attorney General as to
38 the form of the instruments prior to execution.

39 The proceeds ~~realized from such the sale~~, with the written approval of the Governor, ~~in writing,~~ may be used by the
40 state institution or public corporation ~~aforesaid~~ for the purchase of other property or for capital improvements.

41 ~~Any conveyance or agreement heretofore executed which, by its terms, conveys lands from a state institution or~~
42 ~~other public corporation whose funds and property are owned solely by the Commonwealth, to the Commonwealth of Virginia,~~
43 ~~Department of Transportation, is hereby declared valid and effective.~~

44 **DRAFTING NOTE:** Technical corrections only. The last paragraph of this section has been deleted as obsolete.

45 ~~§ 2.1-506~~ 2.2-1153. State agencies and institutions ~~to notify Department~~ Division of property not used or required;
46 criteria.

47 A. Whenever any department, agency or institution of state government ~~shall possess or have possesses or has~~
48 under its control state-owned property ~~which that~~ is not being used or is not required for the programs of ~~such the~~ department,
49 agency or institution, it shall so notify the ~~Department of General Services through its Division of Engineering and Buildings.~~
50 The ~~Department of General Services~~ Division shall periodically inquire of all departments, agencies, or institutions as to the
51 current and proposed use of all state-owned property under their control to determine whether ~~any such the~~ property should
52 be declared surplus to the needs of the Commonwealth. The ~~Department~~ Division shall then determine whether ~~or not such~~
53 the property, including property in its possession and control, is surplus.

54 Until permanent disposition of ~~such the~~ property determined to be surplus is effected, the property shall continue to
55 be maintained by the department, agency or institution possessing or controlling ~~such property it~~, unless upon the
56 recommendation of the Department, the Governor authorizes the transfer of ~~such the~~ property to the possession or control of

1 the Department. In this event, the department, agency or institution formerly possessing or controlling ~~such the~~ property shall
2 have no further interest ~~therein in it~~.

3 B. The ~~Department~~ Division shall establish criteria for ascertaining whether property under the control of a
4 department, agency or institution should be classified as "surplus" to its current or proposed needs.

5 C. Notwithstanding the provisions of subsection A ~~of this section~~, the property known as College Woods, which
6 includes Lake Matoaka and is possessed and controlled by a college founded in 1693, regardless of whether such property
7 has been declared surplus ~~property~~ pursuant to this section, shall not be transferred or disposed of without the approval of
8 the board of visitors of such college by a two-thirds vote of all board members at a regularly scheduled board meeting. The
9 General Assembly shall also approve ~~such the~~ disposal or transfer.

10 **DRAFTING NOTE:** Technical corrections only. To conform with actual practice, "Department" has been replaced with
11 "Division".

12 ~~§ 2-1-508 2.2-1154.~~ State agencies, institutions, to inquire of Division before acquiring land for capital improvements.

13 A. Any state department, agency or institution shall, before purchasing or otherwise acquiring land for any capital
14 improvement, inquire of the Department of ~~General Services~~ whether there is available any suitable land under the control of
15 the Division of ~~Engineering and Buildings~~ or any other state department, agency or institution ~~which that can may be~~
16 authorized for the purpose for which the additional land is needed.

17 B. The Department of ~~General Services~~ shall require every state department, agency or institution responsible for
18 the construction, operation or maintenance of public facilities within the Commonwealth, when siting state facilities and
19 programs, to evaluate the feasibility of siting such facilities and programs in the Commonwealth's urban centers. In making
20 such evaluation, the agency shall consider (i) the fiscal advantages of utilizing the existing infrastructure available in urban
21 centers as compared to the construction of new infrastructure in less developed areas, (ii) the potential savings associated
22 with leasing facilities from the private sector in urban centers as compared to purchasing or constructing new facilities in other
23 areas, (iii) the convenience to employees and citizen users of state facilities and programs of placing such facilities and
24 programs in close proximity to the road and transportation systems and other amenities found in the Commonwealth's urban
25 centers, and (iv) whether the local governing body is supportive of the location as a desirable use of available land resources.

26 This subsection shall not be construed to limit the ability of a state department, agency or institution to locate
27 facilities based on other factors such as a rural locality's desire to stimulate economic development or the need to have
28 regionally dispersed services.

29 C. The provisions of subsection B shall not apply to any facility or program to be located on the campus of any
30 public institution of higher education in Virginia.

31 **DRAFTING NOTE:** Technical corrections only.

32 ~~§ 2-1-514 2.2-1155.~~ Temporary transfer of use of property between state agencies and institutions; lease to private
33 entities.

34 A. Whenever any department, agency, or institution of state government ~~shall possess or have possesses or has~~
35 under its control property for which there is an anticipated future use, but for which there is no immediate use, ~~such the~~
36 department, agency, or institution of the Commonwealth may effect, subject to the written recommendation of the Department
37 of ~~General Services~~ to the Governor and the written approval by the Governor, an agreement in writing with any other
38 department, agency, or institution of state government for the use of ~~such the~~ property by ~~such the~~ other department, agency,
39 or institution during a period not to exceed fifteen years. ~~Any such mutual.~~ The agreement may be extended beyond ~~such the~~
40 fifteen-year period on an annual basis in accordance with the procedures ~~hereinabove~~ prescribed in this subsection. In the
41 event no other department, agency, or institution of state government has use for the property, ~~any the~~ department, agency,
42 or institution may lease ~~such the~~ property to private individuals, firms, corporations or other entities in accordance with the
43 procedures and subject to the term limitations ~~as to term hereinabove~~ prescribed in this subsection.

44 B. The provisions of subsection A notwithstanding, ~~state supported~~ public institutions of higher education in Virginia,
45 subject to the approval of the General Assembly, may enter into written agreements with university-related foundations,
46 private individuals, firms, corporations, or other entities to lease property in the possession or control of the institution. Any
47 such agreement and proposed development or use of property shall (i) be for a purpose consistent with the educational and
48 general mission, auxiliary enterprises, and sponsored program activities of the institution, or such other purpose as the
49 General Assembly may authorize, and ~~shall (ii) comply with guidelines to be promulgated adopted~~ by the Department of
50 ~~General Services~~. The term of any ~~such~~ agreement shall be based upon, among other things, the useful life of the
51 improvements to the property and shall not exceed fifty years; however, any agreement may be extended upon the written
52 recommendation of the Governor and the approval of the General Assembly. Agreements with private individuals, firms,
53 corporations, or other entities shall also be subject to guidelines ~~to be promulgated adopted~~ by the Secretary of Finance. In
54 the event that any ~~state supported~~ public institution of higher education ~~shall enter in Virginia~~ enters into any written
55 agreement with a university-related foundation, private individual, firm, corporation, or other entity to lease property in the
56 possession or control of the institution pursuant to this subsection-B, neither the real property ~~which that~~ is the subject of ~~such~~
57 the lease nor any improvements or personal property located on ~~any the~~ real property ~~which that~~ is the subject of ~~such the~~

lease shall be subject to taxation by any local government authority pursuant to § 58.1-3203 or § 58.1-3502 or any other applicable law during the term of ~~such the~~ lease, regardless of the ownership of ~~such the~~ property, improvements or personal property, provided ~~such the~~ real property, improvements or personal property shall be used for a purpose consistent with the educational and general mission, auxiliary enterprises, and sponsored program activities of the institution.

For the purposes of this section, "university-related foundation" means any foundation affiliated with an institution of higher education.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-512 2.2-1156.~~ Sale or lease of surplus property.

Except when a department, agency or institution notifies the Department of a need for property which has been declared surplus, and the Department finds that stated need to be valid and best satisfied by the use of ~~said the~~ property, the Department may dispose of ~~such the~~ property as ~~herein provided in this section.~~

A. After it determines the property to be surplus to the needs of the Commonwealth, the Department may, with the ~~prior written~~ approval of the Governor ~~in writing first obtained~~, proceed to sell the property. The sale shall be by public auction, or sealed bids, or by marketing through one or more real estate brokers licensed by the Commonwealth. Notice of the date, time and place of sale, if by public auction or sealed bids shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the county or city in which the property to be sold is located. At least thirty days shall elapse between publication of ~~such the~~ notice and the auction or the date on which sealed bids will be opened.

In instances where the appraised value of property proposed to be sold is determined to be a nominal amount or an amount insufficient to warrant statewide advertisement, but in no event in excess of \$50,000, the notice of sale may be placed in only one newspaper having general circulation in the county or city in which the property to be sold is located.

B. The Department shall have the right to reject any and all bids or offers when, in the opinion of the Department, the price is inadequate in relation to the value of ~~such the~~ property or if a need has been found for the property. If the Department deems the bid or offer fair and adequate in relation to the value of the property, and if no other need for the property has been found, the Department shall recommend acceptance of ~~such the~~ bid or offer to the Governor for approval. In lieu of the sale of any such property, the Department may, with the approval of the Governor, lease ~~the same it~~ to any responsible person, firm or corporation on such terms as ~~shall be~~ are fair and adequate in relation to the value of ~~such the~~ property. The provisions of this ~~article section~~ requiring disposition of ~~such~~ property through the medium of sealed bids, public auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although such procedures may be followed in the discretion of the Department. The deed or lease to ~~such the~~ property shall be executed in the name of the Commonwealth and shall be in a form approved by the Attorney General. Notwithstanding any law to the contrary and notwithstanding how title to ~~such the~~ property was acquired, the deed or lease may be executed on behalf of the Commonwealth by the Director of the Department of ~~General Services~~, or his designee, and such action shall not create a cloud on the title to the property. The terms of ~~such the~~ sale or lease shall be subject to the written approval of the Governor

~~B4C.~~ An exception to sale by sealed bids, public auction, or listing the property with a licensed real estate broker may be granted by the Governor if the property is landlocked and inaccessible from a public road or highway. In such cases, the Department shall notify all adjacent landowners of the Commonwealth's desire to dispose of the property. After ~~such the~~ notice has been given, the Department may begin negotiations for the sale of the property with each interested adjacent landowner. The Department, with the approval of the Governor, may accept any offer which it deems to be fair and adequate consideration for the property. In all cases, ~~such the~~ offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

~~GD.~~ Fifty percent of the proceeds from all ~~such~~ sales or leases, or from the conveyance of any interest in property under the provisions of this article, above the costs of ~~such the~~ transaction, which costs shall include fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid, subject to any contrary provisions of law, into the Conservation Resources Fund, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining fifty percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of ~~such the~~ transactions, shall be deposited in the general fund of the ~~Commonwealth~~ state treasury. The Department of Planning and Budget shall develop guidelines which allow, with the approval of the Governor, any portion of the deposit in the general fund to be credited to the agency, department or institution having control of the property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited to an agency, department or institution may be used, upon appropriation, to supplement maintenance reserve funds, ~~to supplement or~~ capital project appropriations, ~~and or~~ for the acquisition, construction or improvement of real property or facilities. Net proceeds from sales or leases of special fund agency properties or property acquired through a gift for a specific purpose shall be retained by ~~such the~~ agency or used in accordance with the original terms of the gift.

~~DE.~~ When the Department deems it to be in the best interests of the Commonwealth, it may, with the approval of the Governor, authorize the department, institution or agency in possession or control of the property to dispose of surplus property in accordance with the procedures set forth ~~herein~~ in this section.

1 DRAFTING NOTE: Technical corrections only.

2 ~~§ 2.1-512.1 2.2-1157.~~ Exploration for and extraction of minerals on state-owned uplands.

3 A. The Department of Mines, Minerals and Energy, in cooperation with the Division, shall develop, with the
4 assistance of affected state agencies, departments, and institutions, a State Minerals Management Plan (the "Plan"). The
5 Plan shall include provisions for the holding of public hearings and the public advertising for competitive bids or proposals for
6 mineral exploration, leasing, and extraction activities on state-owned uplands. Sales of mineral exploration permits and
7 leases for these lands shall be administered by the Division, with the advice of the Department of Mines, Minerals and
8 Energy.

9 AB. Upon receiving the recommendation of both the Director of the Department of General Services and the Director
10 of the Department of Mines, Minerals and Energy, the Governor shall determine whether the proposed mineral exploration,
11 leasing, or extraction of minerals on state-owned uplands is in the public interest. No state-owned uplands shall be approved
12 for mineral exploration, leasing, or extraction without a public hearing in the locality where the affected land or the greater
13 portion thereof is located and a competitive bid or proposal process as described in the Plan. The provisions of this section
14 shall not apply to the extraction of minerals on state-owned uplands pursuant to an oil or gas pooling order unless the well
15 through which the extraction will occur is situated on such land.

16 For the purposes of this section, "state-owned uplands" ~~shall mean means~~ lands owned by the Commonwealth that
17 (i) ~~which~~ lie landward of the mean low water mark in tidal areas or (ii) ~~which~~ have an elevation above the average surface
18 water level in nontidal areas.

19 BC. The agencies, departments, or institutions proposing or receiving applications for mineral exploration, leasing or
20 extraction on state-owned uplands shall, through their boards or commissions, recommend as specified in subsection B of §
21 2.1-512 B 2.2-1156 all such activities to the ~~Department of General Services, Division of Engineering and Buildings,~~ following
22 guidelines set forth in the ~~State Minerals Management Plan.~~ The ~~Division of Engineering and Buildings and the Department of~~
23 ~~Mines, Minerals and Energy shall review and recommend to the Governor such proposed activities. Such agencies,~~
24 ~~departments or institutions, through their boards or commissions, may execute such the leases or contracts which that have~~
25 ~~been approved by the Governor.~~

26 ~~C. The Department of Mines, Minerals and Energy, in cooperation with the Department of General Services,~~
27 ~~Division of Engineering and Buildings, shall develop, with the assistance of affected state agencies, departments, and~~
28 ~~institutions, a State Minerals Management Plan. The Plan shall include provisions for the holding of public hearings and the~~
29 ~~public advertising for competitive bids or proposals for mineral exploration, leasing, and extraction activities on state or~~
30 ~~uplands. Sales of mineral exploration permits and leases for these lands shall be administered by the Department of Ge~~
31 ~~Services, Division of Engineering and Buildings, with the advice of the Department of Mines, Minerals and Energy.~~

32 D. The proceeds from all such sales or leases above the costs of ~~such the~~ sale to the Department of Mines, Minerals
33 and Energy or to the agency, department or institution sponsoring ~~this the~~ sale shall be paid into the general fund of the state
34 treasury, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired
35 through the general fund. Net proceeds from sales or leases of special-fund agency properties or property acquired through a
36 gift shall be retained by such agency or institution or used in accordance with the original terms of the gift if so stated.

37 E. Mining, leasing, and extraction activities in state-owned submerged lands shall be authorized and administered by
38 the Virginia Marine Resources Commission pursuant to §§ 62.1-3 through 62.1-4.

39 DRAFTING NOTE: Technical corrections. Proposed subsection A is derived from existing subsection C, which is show as
40 stricken.

41 ~~§ 2.1-513 2.2-1158.~~ Management, harvesting and sale of timber on lands under control of Division.

42 The Division ~~is authorized and empowered to may~~ manage and harvest timber on lands placed under its control in
43 accordance with the best timber management practices, after receiving the advice of the State Forester. ~~It is also authorized~~
44 ~~to~~ The Division may also sell ~~such the~~ timber, but before ~~such the~~ sale is made, the State Forester or his deputy shall furnish
45 the Division with an estimate of the value of ~~such the~~ timber. In the event of sale, the proceeds shall first be used to defray
46 the cost of the sale and the cost of maintenance of the property from which the timber is removed and the remainder, if any,
47 of ~~such the~~ funds shall be deposited in the Forest Management of State-owned Lands Fund ~~as created~~ in § 10.1-1120.

48 DRAFTING NOTE: Technical corrections only.

49 ~~§ 2.1-514 2.2-1159.~~ Facilities for ~~handicapped persons with physical disabilities~~ in certain buildings; ~~"building"~~
50 ~~defined definitions; construction standards; waiver; temporary buildings.~~

51 A. For the purposes of §§ ~~2.1-515 through 2.1-524,~~ this section and § 2.2-1160:

52 "Building" means any building or facility, used by the public, which is constructed in whole or in part or altered by the
53 use of state, county or municipal funds, or the funds of any political subdivision of this Commonwealth. ~~The provisions of §§~~
54 ~~2.1-516 through 2.1-524 "Building" shall not apply to include public school buildings and facilities, which shall be governed hv~~
55 standards established by the Board of Education pursuant to § 22.1-138.

1 "Persons with physical disabilities" means persons with:

2 1. Impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to
3 wheelchairs;

4 2. Impairments that cause individuals to walk with difficulty or insecurity;

5 3. Total blindness or impairments affecting sight to the extent that the individual functioning in public areas is
6 insecure or exposed to dangers;

7 4. Deafness or hearing handicaps that might make an individual insecure in public areas because he is unable to
8 communicate or hear warning signals;

9 5. Faulty coordination or palsy from brain, spinal, or peripheral nerve injury; or

10 6. Those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination and
11 perceptiveness but are not accounted for in the aforementioned categories.

12 B. The Division shall prescribe standards for the design, construction, and alteration of buildings constructed in
13 whole or in part or altered by the use of state funds, other than school funds, necessary to ensure that persons with physical
14 disabilities will have ready access to, and use of, such buildings.

15 C. The governing body of a county, city or town or other political subdivision shall prescribe standards for the design,
16 construction and alteration of buildings, not including public school facilities, constructed in whole or in part or altered by the
17 use of the funds of such locality or political subdivision necessary to ensure that persons with physical disabilities will have
18 ready access to, and use of, such buildings. The Division shall consult with the governing bodies upon request.

19 D. The Division, with respect to standards issued by it, and the governing body of any county, city or town or other
20 political subdivision with respect to standards issued by it may:

21 1. Modify or waive any such standard, on a case-by-case basis, upon application made by the head of the
22 department, agency or other instrumentality concerned, upon determining that a modification or waiver is clearly necessary;
23 and

24 2. Conduct necessary surveys and investigations to ensure compliance with such standards.

25 E. The provisions of this section and § 2.2-1160 shall apply to temporary and emergency construction as well as
26 permanent buildings.

27 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
28 A is § 2.1-514 and § 2.1-515; subsection B is § 2.1-516, subsection C is § 2.1-517, subsection D is § 2.1-520, and subsection
29 E is § 2.1-521. The definition of "building" in subsection A is from existing § 2.1-514. The term "handicapped person" was
30 replaced with "persons with physical disabilities" throughout this section.

31 ~~§ 2.1-515. Same; "physically handicapped persons" defined.~~

32 ~~For the purposes of this article, the term "physically handicapped persons" shall mean persons with:~~

33 ~~1. Impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to~~
34 ~~wheelchairs;~~

35 ~~2. Impairments that cause individuals to walk with difficulty or insecurity;~~

36 ~~3. Total blindness or impairments affecting sight to the extent that the individual functioning in public areas is~~
37 ~~insecure or exposed to dangers;~~

38 ~~4. Deafness or hearing handicaps that might make an individual insecure in public areas because he is unable to~~
39 ~~communicate or hear warning signals;~~

40 ~~5. Faulty coordination or palsy from brain, spinal, or peripheral nerve injury; or~~

41 ~~6. Those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination and~~
42 ~~perceptiveness but are not accounted for in the aforementioned categories.~~

43 **DRAFTING NOTE:** Technical corrections. This section has been merged with proposed § 2.2-1159 as part of subsection A.

44 ~~§ 2.1-516. Same; authority of Division to prescribe standards.~~

45 ~~The Division of Engineering and Buildings shall prescribe such standards for the design, construction, and alteration~~
46 ~~of buildings constructed in whole or in part or altered by the use of state funds, other than school funds, as may be necessary~~
47 ~~to insure that physically handicapped persons will have ready access to, and use of, such buildings.~~

48 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-1159.

49 ~~§ 2.1-517. Same; authority of local governing bodies to prescribe standards.~~

50 ~~The governing body of a county, municipality or other political subdivision, shall prescribe such standards for the~~
51 ~~design, construction and alteration of buildings, not including public school facilities, constructed in whole or in part or altered~~
52 ~~by the use of the funds of such county, municipality or other political subdivision as may be necessary to insure that~~

1 | ~~physically handicapped persons will have ready access to, and use of, such buildings. The Division of Engineering and~~
2 | ~~Buildings shall consult with the governing bodies upon request.~~

3 | **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C of proposed § 2.2-1159.

4 | ~~§ 2.1-519 2.2-1160. Same~~ Facilities for persons with physical disabilities; what buildings to be constructed in
5 | accordance with standards.

6 | Every building or facility designed, constructed or substantially altered after the effective date of a standard issued
7 | under ~~this article subsection B of § 2.2-1159~~, which is applicable to such building shall be designed, constructed or altered in
8 | accordance with such standard.

9 | **DRAFTING NOTE:** Technical corrections only.

10 | ~~§ 2.1-520. Same; modification or waiver of standards; surveys and investigations.~~

11 | ~~The Division of Engineering and Buildings with respect to standards issued by it, and the governing body of any~~
12 | ~~county, municipality or other political subdivision with respect to standards issued by it are authorized:~~

13 | ~~1. To modify or waive any such standard, on a case by case basis, upon application made by the head of the~~
14 | ~~department, agency or other instrumentality concerned, upon determining that such modification or waiver is clearly~~
15 | ~~necessary; and~~

16 | ~~2. To conduct such surveys and investigations as may be deemed necessary to insure compliance with such~~
17 | ~~standards.~~

18 | **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 2.2-1159.

19 | ~~§ 2.1-521. Article applicable to temporary as well as permanent buildings.~~

20 | ~~The provisions of this article shall apply to temporary and emergency construction as well as permanent buildings.~~

21 | **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 2.2-1159.

22 | ~~§ 2.1-521.4 2.2-1161.~~ Buildings not in conformance with standards for handicapped persons with physical
23 | disabilities.

24 | ~~The Division of Engineering and Buildings, upon a determination that a building or facility, in accordance with § 2.1-~~
25 | ~~519, is not in conformance with the applicable standards for handicapped persons with physical disabilities, shall immediately~~
26 | ~~take all necessary steps to insure ensure such building or facility is in conformance within three months of the date of such its~~
27 | ~~determination; provided, however, that such. The three-month period may be extended for an additional minimum period of~~
28 | ~~time required to obtain funding and complete construction, where the Division determines such an extension to be is~~
29 | ~~necessary; provided, however, that this. This section shall apply only to those state buildings or facilities designed,~~
30 | ~~constructed or substantially modified after July 1, 1977.~~

31 | **DRAFTING NOTE:** Technical corrections only.

32 | Article 5.

33 | Abatement Of Risk Of Asbestos In State-Owned And Public School Buildings.

34 | ~~§ 2.1-526.12 2.2-1162.~~ Definitions.

35 | As used in this article.

36 | "Asbestos" means any material containing more than one percent of the asbestiform varieties of:

- 37 | 1. chrysotile (serpentine),
- 38 | 2. crocidolite (riebeckite),
- 39 | 3. amosite (cummingtonite-grunerite),
- 40 | 4. anthophyllite,
- 41 | 5. tremolite, or
- 42 | 6. actinolite.

43 | "Director" means the Director of the Department of General Services.

44 | "Friable" means material ~~which that~~ is capable of being crumbled, pulverized or reduced to powder by hand pressure
45 | or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air.

46 | "Local education agency" or "LEA" ~~shall have the meaning provided means the same as that term is defined in the~~
47 | USEPA AHERA United States Environmental Protection Agency Asbestos Hazard and Emergency Response Act regulations
48 | set forth in 40 CFR 763.

2 "Operations and maintenance program" means work practices to maintain asbestos-containing material in good
3 condition and to minimize and control disturbance or damage to such materials.

4 "Response actions" means any action, including removal, encapsulation, enclosure, repair, method of operation,
5 maintenance, record keeping or notification that protects human health from building materials containing asbestos.

6 "Secretary" means the Secretary of Administration.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2-1-526-13~~ 2.2-1163. Inspection of state-owned buildings; marking locations where asbestos found; risk abatement
9 and estimate of cost thereof.

10 The Director at the direction of the Secretary and in cooperation with any other appropriate agencies including but
11 not limited to the Department of Education shall ensure that every building owned by the Commonwealth or any agency of the
12 Commonwealth which has not previously been inspected by competent personnel as provided below is inspected as soon as
13 practical by competent personnel who have the training and equipment necessary to identify (i) the presence of asbestos,
14 and (ii) to the extent practicable the relative hazard or hazards to health and safety posed at each location at which asbestos
15 is identified. Every location at which asbestos is identified shall be clearly marked with suitably designed signs or labels. The
16 Director shall prepare an accurate estimate of the cost of abating the risk of all asbestos so identified. The Director shall also
17 establish a list of abatement priorities, which shall include the estimated cost of abating the risk at each location on the list. To
18 the extent that funds are available, and in accordance with the priorities established by the Director, the agency or institution
19 of the Commonwealth responsible for the maintenance of buildings at any such location shall proceed to abate the risk at
20 such locations.

21 **DRAFTING NOTE:** Technical corrections only.

22 ~~§ 2-1-526-14~~ 2.2-1164. Standards for inspection of buildings for asbestos.

23 The Director, at the direction of the Secretary and in cooperation with any other appropriate agencies including, but
24 not limited to, the Department of Education shall ~~promulgate-adopt~~ standards for the inspection of state-owned and local
25 education agency buildings of all types and the ancillary facilities used in connection therewith for the purpose of identifying
the presence of asbestos and to the extent practicable the relative hazard to health or safety posed by any asbestos
identified. The Administrative Process Act (~~§ 9-6-14-1~~ 2.2-4000 et seq.) shall not apply to the ~~promulgation-adoption~~
standards under this section.

28 A. The standards shall include:

29 1. Inspection ~~of such location~~ for the presence, location and condition of asbestos-containing materials;

30 2. Development of a building asbestos profile for each building inspected and found to contain asbestos-containing
31 material, which profile shall:

32 (a) Include information regarding product type (surfacing material, thermal system insulation, or miscellaneous
33 material), specific location, estimated quantity (in square or linear feet), type and percentage of asbestos content, and
34 physical condition;

35 (b) Be kept in possession of the person designated pursuant to subsection E, at a location in the building where it is
36 readily accessible to building employees or their designated representatives;

37 (c) Be updated as surveillance, test results and/or response actions are undertaken in the building.

38 B. The following standards are ~~hereby~~ established for state-owned buildings:

39 1. When air monitoring is used for building assessment, it ~~must~~ shall be used in conjunction with comprehensive
40 visual assessment techniques for determining the priority and nature of response action.

41 2. The airborne asbestos reoccupancy level, to be measured upon completion of response actions, shall be equal to
42 the reoccupancy standards established for buildings pursuant to subsection C.

43 C. The Director, in conjunction with the ~~state~~ Departments of Commerce Professional and Occupational Regulation,
44 Health, Labor and Industry, Education, and Air Pollution Control Environmental Quality, shall ~~promulgate-adopt~~ standards
45 governing aggressive air sampling after completion of an asbestos project for airborne asbestos for local education agencies
46 and public colleges and universities.

47 D. Asbestos management plans for state-owned buildings shall include:

48 1. Operation and maintenance programs, including procedures for the notification of maintenance and housekeeping
49 personnel of the location of asbestos-containing materials likely to be disturbed during routine building operations; the
50 labeling of asbestos-containing materials in routine maintenance areas; and work practices, engineering controls or personal
51 protective measures to minimize asbestos exposure to such personnel and other building occupants;

2. Training requirements for maintenance workers and maintenance supervisory personnel;

3. Assurance of compliance by contractors with licensing under ~~all relevant-applicable state statutes-laws and~~
34 regulations; and

1 4. Provisions for setting priorities of buildings for response actions.

2 E. Each person responsible for such management plans shall designate one member of the maintenance perso. . .
3 in or responsible for each building containing asbestos-containing materials to serve as the liaison to coordinate the specific
4 efforts of such program within the particular building to which the liaison is assigned.

5 **DRAFTING NOTE:** Technical corrections only.

6 ~~§ 2-1-526.15~~ 2.2-1165. Inspection of public school buildings; certification of inspection; certain inspections made
7 before July 1, 1986, deemed in compliance.

8 A. Every public school division in the Commonwealth shall ensure that every school building owned or operated by
9 it, which has not previously been inspected in compliance with this article, is inspected ~~in accordance herewith~~. Inspection
10 shall conform to the standards developed pursuant to ~~§ 2-1-526.14~~ 2.2-1164.

11 B. The superintendent of schools for each public school division shall certify to the Superintendent of Public
12 Instruction and the Secretary that the public schools in the division have been inspected in compliance with this article.

13 C. Inspections completed prior to July 1, 1986, shall be deemed in compliance with this article if the Superintendent
14 of Public Instruction and the Secretary determine that they conform substantially to the standards referenced in ~~§ 2-1-526.14~~
15 2.2-1164, or to the inspection procedures contained in 40 CFR 763.

16 **DRAFTING NOTE:** Technical corrections only.

17 ~~§ 2-1-526.16~~ 2.2-1166. Marking locations where asbestos found in public school buildings; estimate of cost of risk
18 abatement; list of priorities based on risk.

19 Each public school division shall ensure that every location at which asbestos is identified following inspections
20 conducted pursuant to subsection A or C of ~~§ 2-1-526.15 hereof as being present~~ 2.2-1165 is clearly marked with suitably
21 designed signs or labels. Each division shall prepare an accurate estimate of the cost of abating the risk of asbestos at each
22 location so identified. Each division shall also establish a list of priorities, based upon its determination of the risk to public
23 health and safety posed by asbestos at each such location, which shall include the estimated cost of abating the risk at each
24 location on the list.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§ 2-1-526.17. Report to General Assembly as to estimated cost of risk abatement.~~

27 ~~The Director of the Department of General Services shall submit to the General Assembly no later than January 1,~~
28 ~~1980, a consolidated report of the above mentioned estimates for abating the risks of asbestos in all state owned buildings,~~
29 ~~all buildings owned by any agency of the Commonwealth and all public school buildings. The report shall identify an estimate~~
30 ~~for each individual building.~~

31 **DRAFTING NOTE:** Technical corrections. This section has been deleted as obsolete.

32 ~~§ 2-1-526.17.1~~ 2.2-1167. Commonwealth immune from civil liability.

33 The Commonwealth and its officers, agents and employees shall be immune from civil liability for actions (i) arising
34 from the establishment and implementation of asbestos inspection standards developed pursuant to ~~§ 2-1-526.14~~ 2.2-1164
35 and (ii) undertaken pursuant to ~~Article 5.2 (§ 2-1-526.12 et seq.) of this chapter~~ the provisions of this article, Chapter 5 of Title
36 54.1, and §§ 32.1-126.1 and 63.1-198.01.

37 **DRAFTING NOTE:** Technical corrections only.

38 Article 6.

39 Division Of Support Services.

40 ~~§ 2-1-527~~ 2.2-1168. Division of Support Services may be established.

41 The Director of the Department of ~~General Services~~ may establish a Division of Support Services (the "Division") and
42 assign to this Division or to any other division any or all of the duties described in this article or otherwise imposed upon the
43 Department of ~~General Services~~.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 2-1-528~~ 2.2-1169. Mail handling, messenger and parcel service.

46 The Division of ~~Support Services~~ shall operate a central service unit to provide all state departments, divisions,
47 institutions and agencies in the Richmond area with mail handling, messenger and parcel service. These services may, if
48 deemed appropriate, be extended to state departments, divisions, institutions and agencies in other areas of
49 Commonwealth.

1 **DRAFTING NOTE:** Technical corrections only.

2 ~~§ 2.1-529~~ 2.2-1170. Office equipment pool; repair, etc.

3 The Division of ~~Support Services~~ may establish a general office equipment pool and central repair shop for such
4 equipment, and may provide guidelines for the utilization of such equipment; ~~provided, however, that electronic data~~
5 ~~processing equipment.~~ For the purposes of this section, computers, software, supplies, and related peripheral equipment
6 shall not be considered general office equipment.

7 **DRAFTING NOTE:** Technical corrections only. The term "electronic data processing equipment" has been replaced with
8 "computers, software, supplies, and related peripheral equipment" to modernize that term.

9 ~~§ 2.1-530~~ 2.2-1171. Printing and duplicating facilities.

10 The Division of ~~Support Services~~ may operate a printing and duplicating facility in the Richmond area, and may
11 establish criteria for its use, subject to the provisions of ~~§ 2.1-465~~ 2.2-1113.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2.1-534~~ 2.2-1172. Parking of vehicles in Capitol Square; parking facilities for state officers and employees;
14 violations.

15 A. Except as ~~hereinafter~~ provided in this section, all parking in the Capitol Square of motor vehicles and animal-
16 drawn vehicles is ~~heretofore~~ prohibited; ~~provided, that~~ However, during the recess of the General Assembly, the Division of
17 ~~Support Services~~ may cause to be marked off certain portions of the driveways in the Capitol Square and permit ~~such~~
18 vehicles to be parked ~~therein~~ there under such ~~rules and regulations~~ as may be prescribed. Parking areas on the west of the
19 Capitol shall be reserved at all times for parking by members of the General Assembly.

20 B. During sessions of the General Assembly, parking in the Capitol Square shall be subject to rules and regulations
21 ~~promulgated~~ adopted jointly by the Speaker of the House of Delegates and the chairman of the Senate Committee on Rules
22 Committee.

23 C. The Division is ~~authorized, by and may~~, with the approval of the Governor, ~~to~~ utilize any property owned by the
24 Commonwealth and located in the Richmond area for the purpose of providing parking facilities for officers and employees of
25 the Commonwealth, and to allocate spaces therein. The Division may fix and collect fees for the use of ~~such the~~ parking
26 facilities. The Division may ~~promulgate rules and adopt~~ regulations for ~~such the~~ parking facilities, which ~~rules and~~ regulations
27 shall include the enforcement provisions required by §§ 46.2-1225 through 46.2-1229.

28 D. Any person parking any vehicle contrary to the rules and regulations referred to in subsection B or contrary to the
29 other provisions of this section, or contrary to any parking sign or "No Parking" sign erected by the Division pursuant to ~~rules~~
30 ~~and regulations~~ promulgated adopted by it, shall be subject to a fine of not less than one dollar nor more than twenty-five
31 dollars for each offense.

32 **DRAFTING NOTE:** Technical corrections only.

33 CHAPTER 12.

34 DEPARTMENT OF HUMAN RESOURCE MANAGEMENT.

35 ~~§ 2.1-144.3~~ 2.2-1200. Department of Human Resource Management created; Director.

36 A. There is ~~heretofore~~ created a Department of Human Resource Management. The Department (the "Department"),
37 which shall be headed by the ~~a~~ Director of Human Resource Management appointed by the Governor to serve at his
38 pleasure.

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

42 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A
43 is § 2.1-114.3 and subsection B is part of § 2.1-113. Subsection A has been amended to comply with existing § 2.1-41.2,
44 which requires that all agency heads appointed by the Governor shall be subject to confirmation by the General Assembly,
45 shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor.

46 ~~§ 2.1-113. Governor to be Chief Personnel Officer; Director of Human Resource Management; assistants and~~
47 ~~employees; assignment of duties; expenses.~~

48 ~~The Governor shall be the Chief Personnel Officer of the Commonwealth. He shall direct the execution of this~~
49 ~~chapter. The Governor shall appoint a Director of Human Resource Management, who shall hold his position at the pleasure~~
50 ~~of the Governor. The Director of Human Resource Management shall, under the direction and control of the Governor,~~
51 ~~exercise such powers and perform such duties as are delegated to him by the Governor or conferred or imposed by law upon~~

1 him; and he shall perform such other duties as may be required of him by the Governor. The Governor may employ such
2 other competent personnel assistants and employees as he may require to carry out its provisions. At his discretion he may
3 assign to officers and employees of the Commonwealth such duties as he sees fit in connection with the administration of this
4 chapter; such officers and employees shall receive no extra compensation for such duties but shall be reimbursed for,
5 necessary travel and other expenses.

6 **DRAFTING NOTE:** Technical corrections. Part of this section dealing with powers of the Director of the Department of
7 Human Resource Management now appears as subsection B in proposed § 2.2-1200, with the remainder of this section
8 appearing in ~~subsection B of § 2.1-103~~ § 2.2-103 of Chapter 1, concerning the powers of the Governor.

9 ~~§ 2.1-114.4. General powers of Department.~~

10 ~~The Department shall have the following general powers:~~

11 ~~A. To employ such personnel as may be required to carry out the purposes of this chapter.~~

12 ~~B. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and
13 the execution of its powers under this chapter, including but not limited to, contracts with the United States, other states,
14 agencies and governmental subdivisions of Virginia.~~

15 ~~C. To accept grants from the United States government and agencies and instrumentalities thereof and any other
16 source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as
17 may be necessary, convenient or desirable.~~

18 ~~D. To do all acts necessary or convenient to carry out the purposes of this chapter.~~

19 **DRAFTING NOTE:** Technical corrections. The stricken language has been consolidated with other like provisions into
20 proposed § 2.2-601, which is located at the beginning of Chapter 6—State agencies; in Article 1, general provisions.

21 ~~§ 2.1-114.5~~ 2.2-1201. Duties of Department.

22 The Department shall have the following duties:

23 1. Make recommendations to the Governor regarding the establishment and maintenance of a classification plan for
24 the service of the Commonwealth, and recommend necessary amendments thereto ~~as may be necessary~~.

25 2. Make recommendations to the Governor regarding the establishment and administration of a compensation plan
26 for all employees, and recommend necessary amendments thereto ~~as may be necessary~~.

27 3. Design and maintain a personnel information system ~~which that~~ shall support the operational needs of the
28 Department and of state agencies, and ~~which that~~ shall provide for the management information needs of the Governor, his
29 secretaries, and the General Assembly. The system shall provide at a minimum a roster of all employees in the service of the
30 Commonwealth, in which there shall be set forth as to each employee, the employing agency, the class title, pay, status and
31 such other data as may be deemed desirable to produce significant facts pertaining to personnel administration.

32 4. Establish and direct a program of employee-management relations designed to improve communications between
33 employees and agencies of the Commonwealth.

34 5. Establish and administer a system of performance evaluation for all employees in the service of the
35 Commonwealth, based on the quality of service rendered, related where practicable to specific standards of performance. In
36 no event shall workers' compensation leave affect the total number of hours credited during a performance cycle for purposes
37 of calculating incentive increases in salary based on such performance evaluations.

38 6. Establish and administer a system of recruitment designed to attract high quality employees to the service of the
39 Commonwealth. In administering this system, applicants shall be rated on the basis of relative merit and classified in
40 accordance with their suitability for the various classes of positions in the service of the Commonwealth, and a record thereof
41 shall be maintained in the open register.

42 7. Design and utilize an application form which shall include, but not be limited to, information on prior volunteer work
43 performed by the applicant.

44 8. Establish and administer a comprehensive and integrated program of employee training and management
45 development.

46 9. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of
47 the agencies of the Commonwealth.

48 10. Establish and administer a program to ~~assure~~ ensure equal employment opportunity to applicants for state
49 employment and to state employees in all incidents of employment.

50 11. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include
51 the suspension without pay for more than ten days of any state employee who is under investigation without a hearing
52 conducted either by a level of supervision above the employee's immediate supervisor or by his agency head.

12. Adopt and implement a program of meritorious service awards to employees who propose procedures or ideas which that are adopted and which that will result in eliminating or reducing state expenditures or improving operations, provided such proposals are placed in effect.

13. Develop state personnel policies and, after approval by the Governor, disseminate and interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the international network of computer systems commonly known as the Internet. At a minimum, the Department's acceptable use policy shall contain provisions which that (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate. The Director of the Department of Human Resource Management shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to assure ensure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department of Human Resource Management shall have no authority with respect to the state grievance procedures.

14. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year. Effective July 1, 1995, the publication shall include and the net gains and losses in personnel for each agency for a three-year period.

15. Submit a report to the General Assembly on or before September 30 of each year showing the number of employees who voluntarily and involuntarily terminated their employment with each department, agency or institution in the previous fiscal year.

16. Administer the workers' compensation insurance plan for state employees in accordance with ~~§ 2.1-144.5:02~~ 2.2-2821.

DRAFTING NOTE: Technical corrections. Subdivision 15 is derived from existing § 2.1-404 dealing with Department of Human Resource Management and was moved to this section as a more appropriate placement since it affects Department of Human Resource Management.

§ 2.1-144.6 2.2-1202. Employee compensation; annual review.

It is a goal of the Commonwealth that its employees be compensated at a rate comparable to the rate of compensation for employees in the private sector of the Commonwealth in similar occupations. In determining comparability, consideration shall be given to the economic value of fringe benefits in addition to direct compensation. An annual review shall be conducted by the Director of ~~Human Resource Management~~ the Department to determine where discrepancies in compensation exist as between the public and private sectors of the Commonwealth; ~~the~~ The results of ~~such the~~ such review ~~shall be reported by December 15 of each year to the Governor and the General Assembly, by the fifteenth day of December.~~

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-144.5:04~~ 2.2-1203. Certain information not to be made public.

Notwithstanding the provisions of ~~Chapter 21 (§§ 2.1-340 through 2.1-346.1) of Title 2.1 the Freedom of Information Act (§ 2.2-3700 et seq.)~~, the Department shall not disclose lists of home addresses of state employees except in accordance with regulations adopted by the Department pursuant to ~~Chapter 1.1:1 (§§ 0-6.14:1 through 0-6.14:25) of Title 0 the Administrative Process Act (§ 2.2-4000 et seq.)~~.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-20.1:02~~ 2.2-1204. Health insurance program for employees of local governments, local officers, teachers, etc.; definitions.

A. The Department of ~~Human Resource Management~~ shall establish a plan or plans, hereinafter "plan" or "plans", subject to the approval of the Governor, for providing health insurance coverage for employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, officers, teachers and retirees. The plan or plans shall be rated separately from the plan established pursuant to ~~§ 2.1-20.1-2.2-2818~~ to provide health and related insurance coverage for state employees. Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing body, or by the local school board in the case of teachers, and (iii) subject to regulations ~~promulgated~~ adopted by the Department. In addition, at the option of a governing body or school board which that has elected to participate in the health insurance plan or plans offered by the Department, the governing body or school board may elect to participate in the long-term care or other benefit program which that the Department may make available to the governing body or school board.

1 B. The plan established by the Department shall satisfy the requirements of the Virginia Public Procurement
2 ~~44-36-2.2-4300~~ et seq.), shall consist of a flexible benefits structure ~~which that~~ permits the creation of multiple pla-
3 benefits and may provide for separate rating groups based upon criteria established by the Department. The Department
4 shall ~~promulgate~~adopt regulations regarding the establishment of such a plan or plans, including, but not limited to,
5 requirements for eligibility, participation, access and egress, mandatory employer contributions and financial reserves, and
6 the administration of the plan or plans. The Department may engage the services of other professional advisors and vendors
7 as necessary for the prudent administration of the plan or plans. The assets of the plan or plans, together with all
8 appropriations, premiums and other payments, shall be deposited in the employee health insurance fund, from which
9 payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to
10 time. The assets of the fund shall be held for the sole benefit of the employee health insurance fund. The fund shall be held in
11 the state treasury. Any interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer
12 shall charge reasonable fees to recover the actual costs of investing the assets of the plan or plans.

13 In establishing the participation requirements, the Department may provide that those employees, officers, and
14 teachers without access to employer-sponsored health care coverage may participate in the plan. It shall collect all premiums
15 directly from the employers of such employees, officers, and teachers.

16 C. In the administration of the plan or plans, the Department shall take into consideration the recommendations
17 made by an advisory committee. Such advisory committee shall be composed of at least five members to be appointed by the
18 Governor, with at least one member representing each of the following groups: local governments, local officers, local school
19 boards, teachers, and retirees. Committee members shall be reimbursed for the expenses incurred by them as members of
20 the committee but shall not be otherwise compensated for their services. The terms of service for the advisory committee
21 members shall be established by the Department.

22 D. In the event that the financial reserves of the plan fall to an unacceptably low level as determined by the
23 Department, it shall have the authority to secure from the State Treasurer a loan sufficient to raise the reserve level to one
24 ~~which that~~ is considered adequate. The State Treasurer ~~is hereby authorized to~~ may make such a loan, to be repaid on such
25 terms and conditions as established by him.

26 E. For the purposes of this section, ~~the following terms shall have the meanings indicated:~~

27 "Employees of local governments" shall include all officers and employees of the governing body of any county, city
28 or town, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any
29 commission or public authority or body corporate created by or under an act of the General Assembly specifying the pow-
30 powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as disting-
31 ~~from §§ 45.1-20, 45.1-24, 15.2-1300, 15.2-1303,~~ or similar statutes, provided that the officers and employees of a social
32 services department, welfare board, mental health, mental retardation and substance abuse services board, or library board
33 of a county, city, or town shall be deemed to be employees of local government.

34 "Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of
35 a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.

36 "Teacher" means any employee of a county, city, or other local public school board.

37 F. Any stock and cash distributed to the Commonwealth pursuant to the conversion of Blue Cross and Blue Shield of
38 Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a stock corporation known as
39 Trigon Healthcare, Inc., that is directly attributable to the health insurance plan or plans established for employees of local
40 governments, local officers, teachers, and retirees, and the dependents of such employees, officers, teachers and retirees,
41 pursuant to subsection A (hereinafter referred to as the "local choice plan distribution") shall be deposited in the state treasury
42 to the credit of the employee health insurance fund to be used as provided in this subsection. Such distribution shall not
43 include any cash paid by Blue Cross and Blue Shield of Virginia or its successor to the Commonwealth in connection with
44 such conversion ~~which that~~ was assumed as general fund revenue in Chapter 912 of the 1996 Acts of Assembly. All other
45 stock and cash received by the Commonwealth pursuant to such conversion of Blue Cross and Blue Shield of Virginia to a
46 stock corporation shall be allocated as provided in subsection B of § 23-284.

47 The State Treasurer shall sell any stock received pursuant to the local choice plan distribution as soon as
48 practicable following its receipt, subject to any lockup period or other restriction on its sale, and the proceeds therefrom shall
49 be deposited in the state treasury to the credit of the employee health insurance fund. Notwithstanding any other provision of
50 law to the contrary, the State Treasurer shall not be liable for any losses incurred from the sale or distribution of such stock.

51 The Department of Human Resource Management shall use any stock, or the proceeds therefrom, and cash
52 received pursuant to the local choice plan distribution to reduce premiums payable by employers participating in a plan or
53 plans established pursuant to subsection A. In setting health insurance premiums for such plan or plans, the Director of the
54 Department of Human Resource Management shall allocate the value of such stock, or proceeds therefrom, and cash among
55 each participating employer. Such allocation shall be based on the proportionate amounts of premiums previously paid by
56 each participating employer. If a participating employer withdraws from such plan or plans before all of the value allocated to
57 it has been used for the benefit of the participating employer, the remaining value shall be transferred to such participat-
58 ing employer upon his withdrawal.

1 **DRAFTING NOTE:** Technical corrections only.

2 ~~§ 2-120.1-04 2.2-1205.~~ Purchase of continued health insurance coverage by the surviving spouse and any
3 dependents of an active or retired local law-enforcement officer, firefighter, etc., through the Department.

4 A. The surviving spouse and any dependents of an active or retired law-enforcement officer of any county, city, or
5 town of ~~this the~~ Commonwealth; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city
6 sergeant or deputy city sergeant of the City of Richmond; a member of any fire company or department or rescue squad
7 ~~which that~~ has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of this
8 Commonwealth as an integral part of the official safety program of such county, city or town; or a member of an emergency
9 medical services department, whose death occurs as the direct or proximate result of the performance of his duty, including
10 the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, shall be entitled, upon proper application to the
11 ~~Department of Human Resource Management,~~ to purchase continued health insurance coverage on the following conditions:
12 (i) on the date of death, the deceased participated in a health insurance plan administered by the Department of ~~Human~~
13 ~~Resource Management~~ pursuant to ~~§ 2-1-20.1-02 2.2-1204~~ and (ii) on the date of the deceased's death, the applicants were
14 included in the health insurance plan in condition (i) of this subsection. The health insurance plan administered by the
15 ~~Department of Human Resource Management~~ pursuant to ~~§ 2-1-20.1-02 2.2-1204~~ shall provide means whereby coverage for
16 the spouse and any dependents of the deceased as provided in this section may be purchased. The spouse and any
17 dependents of the deceased who purchase continued health insurance coverage pursuant to this section shall pay the same
18 portion of the applicable premium as active employees pay for the same class of coverage, and the local government
19 employer that employed the deceased shall pay the remaining portion of the premium.

20 B. Any application to purchase continued health insurance coverage hereunder shall be made in writing to the
21 ~~Department of Human Resource Management~~ within sixty days of the date of the deceased's death. The time for making
22 application may be extended by the Department for good cause shown.

23 C. In addition to any necessary information requested by the ~~Department of Human Resource Management,~~ the
24 application shall state whether conditions (i) and (ii) set forth in subsection A of this section have been met. If the Department
25 states that such conditions have not been met, the Department shall conduct an informal fact-finding conference or
26 consultation with the applicant pursuant to ~~§ 9-6-14:14 2.2-4019~~ of the Administrative Process Act. Upon scheduling the
27 conference or consultation, the provisions of the Administrative Process Act (~~§ 9-6-14:1 2.2-4000~~ et seq.) shall apply
28 thereafter.

29 D. Upon payment of any required premiums, coverage shall automatically be extended during the period for making
30 application and shall be effective retroactive to the date of the deceased's death.

31 E. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall be subject to
32 administration by the ~~Department of Human Resource Management.~~ The Department may increase the cost of coverage
33 consistent with its administration of health insurance plans under ~~§ 2-1-20.1-02 2.2-1204.~~ However, at no time shall a
34 surviving spouse or dependents pay more for continued health insurance coverage than active employees pay under the
35 same plan for the same class of coverage.

36 F. For the surviving spouse, continued health insurance coverage purchased hereunder shall automatically
37 terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii) alternate health insurance coverage being
38 obtained, or (iv) any applicable condition outlined in the policies and procedures of the ~~Department of Human Resource~~
39 ~~Management~~ governing health insurance plans administered pursuant to ~~§ 2-1-20.1-02 2.2-1204.~~

40 G. For any surviving dependents, continued health insurance coverage purchased hereunder shall automatically
41 terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate health insurance coverage being
42 obtained; (iv) attaining the age of twenty-one, unless the dependent is (a) a full-time college student, in which event coverage
43 shall not terminate until such dependent has either attained the age of twenty-five or until such time as the dependent ceases
44 to be a full-time college student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage
45 shall not terminate until three months following cessation of the disability; or (v) any applicable condition outlined in the
46 policies and procedures of the ~~Department of Human Resource Management~~ governing health insurance plans administered
47 pursuant to ~~§ 2-1-20.1-02 2.2-1204.~~

48 **DRAFTING NOTE:** Technical corrections only.

49 ~~§ 2-1-20.1-05 2.2-1206.~~ Purchase of continued health insurance coverage by the surviving spouse and any
50 dependents of an active local law-enforcement officer, firefighter, etc., through a plan sponsor.

51 A. For the purposes of this section, "plan sponsor" means a local government employer ~~which that~~ has established a
52 plan of health insurance coverage for its employees, retirees and dependents of employees as are described in subsection B.

53 B. The surviving spouse and any dependents of an active law-enforcement officer of any county, city, or town of this
54 Commonwealth; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city
55 sergeant of the City of Richmond; a member of any fire company or department or rescue squad ~~which that~~ has been
56 recognized by an ordinance or a resolution of the governing body of any county, city, or town of this Commonwealth as an
57 integral part of the official safety program of such county, city or town; or a member of an emergency medical services

1 department; whose death occurs as the direct or proximate result of the performance of his duty shall be entitled, upon proper
2 application to the appropriate plan sponsor, to purchase continued health insurance coverage on the following conditions: (i)
3 on the date of death, the deceased participated in a health insurance plan administered by the plan sponsor and (ii) on the
4 date of the deceased's death, the applicants were included in the health insurance plan in condition (i) of this subsection. The
5 health insurance plan administered by the plan sponsor shall provide means whereby coverage for the spouse and any
6 dependents of the deceased as provided in this section may be purchased.

7 C. Any application to purchase continued health insurance coverage hereunder shall be made in writing to the plan
8 sponsor within sixty days of the date of the deceased's death. The time for making application may be extended by the plan
9 sponsor for good cause shown.

10 D. In addition to any necessary information requested by the plan sponsor, the application shall state whether
11 conditions (i) and (ii) set forth in subsection B of this section have been met. If the plan sponsor states that such conditions
12 have not been met, the plan sponsor, notwithstanding the provisions of ~~§ 0-6-14-4-1§ 2.2-4002, 2.2-4006, or 2.2-4011~~, shall
13 conduct an informal fact-finding conference or consultation with the applicant pursuant to ~~§ 0-6-14-11- 2.2-4019~~ of the
14 Administrative Process Act. Upon scheduling the conference or consultation, the provisions of the local government's
15 grievance procedure for nonprobationary, permanent employees shall apply thereafter.

16 E. Upon payment of any required premiums, coverage shall automatically be extended during the period for making
17 application and shall be effective retroactive to the date of the deceased's death.

18 F. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall be subject to
19 administration by the plan sponsor. The plan sponsor may increase the cost of coverage consistent with its administration of
20 health insurance plans under ~~§ 2-1-20-1-02 2.2-1204~~. However, at no time shall the surviving spouse or dependents pay more
21 for continued health insurance coverage than the active employee rate under the same plan for the same class of coverage.

22 G. For the surviving spouse, continued health insurance coverage purchased hereunder shall automatically
23 terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii) alternate health insurance coverage being
24 obtained, or (iv) any applicable condition outlined in the policies and procedures of the plan sponsor governing health
25 insurance plans administered for its active employees.

26 H. For any surviving dependents, continued health insurance coverage purchased hereunder shall automatically
27 terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate health insurance coverage being
28 obtained; (iv) attaining the age of twenty-one, unless the dependent is (a) a full-time college student, in which event coverage
29 shall not terminate until such dependent has either attained the age of twenty-five or until such time as the dependent ceases
30 to be a full-time college student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage
31 shall not terminate until three months following cessation of the disability; or (v) any applicable condition outlined in the
32 policies and procedures of the plan sponsor governing health insurance plans administered for its active employees.

33 **DRAFTING NOTE:** Technical corrections only.

34 CHAPTER 13.

35 DEPARTMENT OF INFORMATION TECHNOLOGY.

36 § 2-1-563-14 2.2-1300. Creation of Department; appointment of Director; duties.

37 A. There is hereby created a Department of Information Technology. The Department (the "Department"), which shall
38 be headed by a Director who shall be appointed by the Governor to serve at his pleasure for a term coincident with his own.

39 Whenever in this title and in the Code of Virginia reference is made to a division, department or agency hereinafter
40 transferred to this Department, it shall mean the Department of Information Technology.

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

43 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A
44 is § 2.1-563.14 and subsection B is § 2.1-563.15. Subsection A has been amended to comply with existing § 2.1-41.2, which
45 requires that all agency heads appointed by the Governor shall be subject to confirmation by the General Assembly, shall
46 have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor.

47 § 2-1-563-13 2.2-1301. Definitions.

48 As used in this chapter:

49 "Communications ~~Services~~services" includes telecommunications services, automated data processing and word
50 processing services, and management information systems that serve the needs of state agencies and institutions, but does
51 not include telecommunications services and facilities under the direct control of the Department of State Police.

52 "Department" means the Department of Information Technology.

53 "Director" means the Director of the Department of Information Technology.

"Noncommercial telecommunications entity" means any public broadcasting station as defined in § ~~2.1-563.27:2~~ 2.2-2427.

"Public telecommunications entity" means any public broadcasting station as defined in § ~~2.1-563.27:2~~ 2.2-2427.

"Public telecommunications facilities" means all apparatus, equipment and material necessary for or associated in any way with public broadcasting stations or public broadcasting services as those terms are defined in § ~~2.1-563.27:2~~ 2.2-2427, including the buildings and structures necessary to house such apparatus, equipment and material, and the necessary land ~~necessary therefor~~ for the purpose of providing public broadcasting services, but not telecommunications services.

"Public telecommunications services" means public broadcasting services as defined in § ~~2.1-563.27:2~~ 2.2-2427.

~~"Telecommunications" means any origination, transmission, emission, or reception of signs, signals, writings, images, and sounds or intelligence of any nature, by wire, radio, television, optical, or other electromagnetic systems.~~

~~"Telecommunications facilities" means apparatus necessary or useful in the production, distribution, or interconnection of electronic communications for state agencies or institutions including the buildings and structures necessary to house such apparatus, and the necessary land-necessary therefor; however, computer and computer terminal facilities and wireless communications facilities under the direct control of the Department of State Police shall not be included in this definition.~~

~~"Telecommunications services" means telecommunications to serve the needs of state agencies and institutions but shall not include public broadcasting services as defined in § ~~2.1-563.27:2~~ 2.2-2427 nor wireless communications services and systems under the direct control of the Department of State Police.~~

~~"Telecommunications" means any origination, transmission, emission, or reception of signs, signals, writings, images, and sounds or intelligence of any nature, by wire, radio, television, optical, or other electromagnetic systems.~~

~~"Telecommunications facilities" means apparatus necessary or useful in the production, distribution, or interconnection of electronic communications for state agencies or institutions including the buildings and structures necessary to house such apparatus and the land necessary therefor; however, computer and computer terminal facilities and wireless communications facilities under the direct control of the Department of State Police shall not be included in this definition.~~

~~"Telecommunications services" means telecommunications to serve the needs of state agencies and institutions but shall not include public broadcasting services as defined in § ~~2.1-563.27:2~~ 2.2-XXX nor wireless communications services and systems under the direct control of the Department of State Police.~~

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-563.15. Powers and duties of Director.~~

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

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-1300.

~~§ 2.1-563.16~~ 2.2-1302. General Additional powers of Department.

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

~~1. Employ such personnel as may be required to carry out the purposes of this chapter;~~

~~2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth;~~

~~3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;~~

~~4. Prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter; and~~

~~5. 2. Establish fee schedules which that may be collectible from users when general fund appropriations are not applicable to the services rendered; and~~

~~6. Do all acts necessary or convenient to carry out the purposes of this chapter.~~

~~B. All statewide contracts and agreements made and entered into by the Department shall provide for the inclusion of counties, cities, and towns in such contracts and agreements. For good cause shown, the Secretary of Technology may disapprove such inclusion from a specific contract or agreement. Notwithstanding the provisions of § 11-37, the Department may enter into multiple vendor contracts for the referenced hardware, software, and services.~~

1 **DRAFTING NOTE:** Technical corrections. Subsection B has been moved to proposed 2.2-1303 as new subsection C. The
2 stricken language has been consolidated with other like provisions into proposed § 2.2-601, which is located at the begin-
3 of Chapter 6--State agencies; in Article 1, general provisions. The powers listed in this proposed section come from existi-
4 § 2.1-863.16, and are powers granted specifically to the Department of Information Technology.

5 ~~§ 2.1-563.17 2.2-1303. Powers-Additional powers and duties relating to communications equipment and services.~~

6 A. The Department shall have the following additional powers and duties concerning the planning, budgeting,
7 acquiring, using and disposing of communications equipment and services:

8 1. ~~To formulate-Formulate~~ specifications for telecommunications, automated data and word processing, and
9 management information systems.

10 2. ~~To analyze-Analyze~~ and approve all procurements of interconnective telecommunications facilities, telephones,
11 automated data and word processing, and other communications equipment and goods.

12 3. ~~To review-Review~~ and approve all agreements and contracts for communications services prior to execution
13 between a state agency and another public or private agency.

14 4. ~~To develop-Develop~~ and administer a system to monitor and evaluate executed contracts and billing and
15 collection systems.

16 5. ~~To exempt-Exempt~~ from review requirements, but not from the state's competitive procurement process, any state
17 agency ~~which that~~ establishes, to the satisfaction of the Department, (i) its ability and willingness to administer efficiently and
18 effectively the procurement of communications services or (ii) that it has been subjected to another review process
19 coordinated through or approved by the Department.

20 B. The Department shall have the following powers and duties concerning the development, operation and
21 management of communications services:

22 1. Manage and coordinate the various communications facilities, centers, and operations used by the
23 Commonwealth.

24 2. Acquire, lease, or construct such facilities and equipment as necessary to deliver comprehensive communications
25 services; and to maintain such facilities and equipment owned or leased.

26 3. Provide technical assistance to state agencies in such areas as: (i) designing management information systems;
27 (ii) performing systems development services, including design, application programming, and maintenance; (iii) conducting
28 research and sponsoring demonstration projects pertaining to all facets of telecommunications; (iv) effecting economi
29 telephone systems and equipment; (v) planning and forecasting for future needs in communications services; and
30 management studies and surveys of organizational structure, management practices and systems and procedures.

31 4. Develop and implement information, billing and collections systems that will aid state agencies in forecasting their
32 needs and managing their operations.

33 C. All statewide contracts and agreements made and entered into by the Department for the purchase of computers,
34 software, supplies, and related peripheral equipment and services shall provide for the inclusion of counties, cities, and towns
35 in such contracts and agreements. For good cause shown, the Secretary of Administration may disapprove the inclusion from
36 a specific contract or agreement. Notwithstanding the provisions of § 2.2-4301, the Department may enter into multiple
37 vendor contracts for the referenced hardware, software, and services.

38 D. This section shall not be construed or applied so as to infringe upon, in any manner, the responsibilities for
39 accounting systems assigned to the Comptroller under § 2.1-496.4 2.2-803.

40 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
41 A is § 2.1-563.17, subsection B is § 2.1-563.18, subsection C is § 2.1-563.16, and subsection D is the last paragraph of § 2.1-
42 563.18.

43 ~~§ 2.1-563.18. Powers and duties.~~

44 ~~The Department shall have the following powers and duties concerning the development, operation and~~
45 ~~management of communications services:~~

46 1. ~~To manage and coordinate the various communications facilities, centers, and operations used by the~~
47 ~~Commonwealth.~~

48 2. ~~To acquire, lease, or construct such facilities and equipment as necessary to deliver comprehensive~~
49 ~~communications services; and to maintain such facilities and equipment owned or leased.~~

50 3. ~~To provide technical assistance to state agencies in such areas as: (i) designing management information~~
51 ~~systems; (ii) performing systems development services, including design, application programming, and maintenance; (iii)~~
52 ~~conducting research and sponsoring demonstration projects pertaining to all facets of telecommunications; (iv) effecting~~
53 ~~economics in telephone systems and equipment; (v) planning and forecasting for future needs in communications services;~~
54 ~~and (vi) management studies and surveys of organizational structure, management practices and systems and procedure~~

4. To develop and implement information, billing and collections systems which will aid state agencies in forecasting their needs and managing their operations.

This section shall not be construed or applied so as to infringe upon, in any manner, the responsibility for accounting systems assigned to the Comptroller under § 2.1-106.1.

DRAFTING NOTE: Technical corrections. Subdivisions 1 through 4 have been merged with proposed § 2.2-1303 as new subdivisions B₁ through B₄. The last paragraph now appears as new subsection D in proposed § 2.2-1303.

~~§ 2.1-563.19 2.2-1304. Internal service funds; Automated Services Working Capital Internal Service Fund; Computer Services Internal Service Fund; Telecommunication Services Internal Service Fund.~~

~~A. There is are hereby established an Automated Services Working Capital Fund to be used exclusively to finance automated systems design, development and testing services and staff of the Department. the following internal service funds to be administered by the Department:~~

~~1. The Automated Services Internal Service Fund to be used exclusively to finance automated systems design, development and testing services and staff of the Department;~~

~~2. The Computer Services Internal Service Fund to be used exclusively to finance computer operations and staff of the Department; and~~

~~3. The Telecommunication Services Internal Service Fund to be used exclusively to finance telecommunications operations and staff of the Department.~~

~~B. All users of services provided for in this chapter administered by the Department shall be assessed a surcharge that shall be deposited in the appropriate fund. This charge shall be an amount sufficient to allow the Department to finance the operations and staff of the service offered.~~

~~C. Additional moneys necessary to establish these funds or provide for the administration of the activities of the Department may be advanced from the general fund of the state treasury.~~

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: in subsection A, subdivision 1 is § 2.1-563.19, subdivision 2 is § 2.1-563.20, and subdivision 3 is § 2.1-563.21; and subsection B and C are § 2.1-563.22. On the recommendation of the Comptroller, the term "working capital funds" was replaced with the term "internal service funds".

~~§ 2.1-563.20. Computer Services Working Capital Fund.~~

~~There is hereby established a Computer Services Working Capital Fund to be used exclusively to finance computer operations and staff of the Department.~~

DRAFTING NOTE: This section has been merged with proposed § 2.2-1304 as new subdivision A. 2.

~~§ 2.1-563.21. Telecommunication Services Working Capital Fund.~~

~~There is hereby established a Telecommunication Services Working Capital Fund to be used exclusively to finance telecommunications operations and staff of the Department.~~

DRAFTING NOTE: This section has been merged with proposed § 2.2-1304 as new subdivision A. 3.

~~§ 2.1-563.22. Working Capital Funds; continuation.~~

~~A. All users of services provided for in this article administered by the Department shall be assessed a surcharge which shall be deposited in the appropriate fund. This charge shall be an amount sufficient to allow the Department to finance the operations and staff of the service offered.~~

~~B. All moneys existing in Working Capital Funds of the Department of Information Technology are hereby transferred to the appropriate service's Working Capital Fund.~~

~~C. Additional moneys necessary to establish these funds or provide for the administration of the activities of the Department may be advanced from the general fund of the state treasury of the Commonwealth of Virginia.~~

DRAFTING NOTE: This section has been merged with proposed § 2.2-1304 as new subsections B and C, respectively. Existing subsection B of this section was deleted as obsolete.

CHAPTER 14.

DEPARTMENT OF MINORITY BUSINESS ENTERPRISE.

~~§ 2.1-64.32 2.2-1400. Office Creation of Department of Minority Business Enterprise continued as Department; appointment of Director; offices; personnel.~~

~~The State Office of Minority Business Enterprise within the office of the Governor is continued and shall hereafter be known as the A. There is created within the Office of the Governor a Department of Minority Business Enterprise (the~~

1 ~~"Department"). Wherever the words "State Office of Minority Business Enterprise" are used in any law of this Commonwealth,~~
2 ~~they shall mean the Department of Minority Business Enterprise which shall be headed by a Director appointed by the~~
3 ~~Governor to serve at his pleasure. The Director shall also serve as a special assistant to the Governor for minority enterprise.~~

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

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

8 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A
9 is § 2.1-64.32, except the last sentence that is from § 2.1-64.33; subsection B was added to standardize, among the various
10 agencies in this title, language relating to the Director's exercise of powers/duties conferred by law, etc.; and subsection C is
11 § 2.1-64.33.

12 ~~§ 2.1-64.32-4 2.2-1401.~~ Definitions.

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

14 "Certification" means the process by which a business or business enterprise is determined to be a minority
15 business enterprise for the purpose of reporting minority business participation in state contracts and purchases pursuant to
16 ~~§§ 2.1-64.37-2.2-1404 and 2.1-64.38 2.2-1405.~~

17 "Minority business enterprise" means a business enterprise that is owned and controlled by one or more socially and
18 economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or
19 background or other similar cause. Such persons include, but are not limited to Blacks, Hispanic Americans, Asian
20 Americans, American Indians, Eskimos, and Aleuts.

21 **DRAFTING NOTE:** Technical corrections only.

22 ~~§ 2.1-64.33.~~ Appointment and functions of Director; offices; personnel.

23 ~~The Department of Minority Business Enterprise shall be headed by a Director appointed by the Governor. The~~
24 ~~Director shall also serve as a special assistant to the Governor for minority enterprise. The Department of Minority Business~~
25 ~~Enterprise shall have its main office in Richmond and may have branch offices as may be necessary, as determined by the~~
26 ~~Director subject to the approval of the Secretary of Commerce and Trade. The Director shall employ such personnel as are~~
27 ~~necessary to carry out the duties of his office.~~

28 **DRAFTING NOTE:** Technical corrections. This section now appears as new subsections A and C in proposed § 2.2-1400.

29 ~~§ 2.1-64.34 2.2-1402.~~ Powers-Additional powers and duties of Department.

30 The Department of ~~Minority Business Enterprise~~ shall have the following additional powers and duties:

31 ~~(a)-1.~~ 1. Coordinate as consistent with law the plans, programs and operations of the state government ~~which that~~
32 ~~affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise.~~

33 ~~(b)-2.~~ 2. Promote the mobilization of activities and resources of state and local governments, businesses and trade
34 associations, universities, foundations, professional organizations, and volunteer and other groups towards the growth of
35 minority business enterprises, and facilitate the coordination of the efforts of these groups with those of state departments
36 and agencies.

37 ~~(c)-3.~~ 3. Establish a center for the development, collection, summarization, and dissemination of information that will be
38 helpful to persons and organizations throughout the nation in undertaking or promoting the establishment and successful
39 operation of minority business enterprise.

40 ~~(d)-4.~~ 4. Within constraints of law and availability of funds, and according to the Director's discretion, provide technical
41 and management assistance to minority business enterprises, and defray all or part of the costs of pilot or demonstration
42 projects ~~which that~~ are designed to overcome the special problems of minority business enterprises.

43 5. Manage the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311, and, in
44 cooperation with the Small Business Financing Authority, determine the qualifications, terms, and conditions for the use of
45 such Fund.

46 **DRAFTING NOTE:** Technical corrections. Subdivision 5 was added as a cross reference to the Capital Access Fund for
47 Disadvantaged Businesses, which is now found in Part D of Subtitle I, in the chapter dealing with the Small Business
48 Financing Authority. The Department of Minority Business Enterprise has management responsibility for the Fund while the
49 Small Business Financing Authority actually administers the Fund.

50 ~~§ 2.1-64.35 2.2-1403.~~ Powers of Director.

51 As deemed necessary or appropriate to better fulfill the duties of the Department of ~~Minority Business Enterprise~~, the
52 Director may:

1. With the participation of other state departments and agencies ~~as appropriate~~, develop comprehensive plans and specific program goals for the minority enterprise program; establish regular performance monitoring and reporting systems to assure that goals are being achieved; and evaluate the impact of federal and state support in achieving his objectives.

2. Employ the necessary personnel and/or subcontract according to his discretion, with localities to supplement the functions of business development organizations.

3. Assure the coordinated review of all proposed state training and technical assistance activities in direct support of the minority enterprise program to ~~assure~~ ensure consistency with program goals and to avoid duplication.

4. Convene, for purposes of coordination, meetings of the heads of departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this chapter.

5. Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating or coordinating governmental and private activities in furtherance of the objectives of this chapter.

6. Provide the managerial and organizational framework through which joint ~~or collaborative~~ undertakings with state departments or agencies or private organizations can be planned and implemented.

7. Recommend appropriate legislative or executive actions.

8. ~~Promulgate~~ Adopt reasonable regulations in accordance with the Administrative Process Act (~~§ 9-6.14:1-2.2-4000~~ et seq.) to implement a certification program for minority business enterprises. Such certification process shall include consideration of other states' laws ~~which that~~ may deny like certifications to Virginia-based minority business enterprises and ~~which that~~ may provide preference for minority business enterprises based in that state.

9. Establish an interdepartmental board in accordance with § 2.2-1404 to supply the Director with information useful in promoting minority business activity.

DRAFTING NOTE: Technical corrections only. Subdivision 9 was added to clarify that the Director has the power to create an interdepartmental board pursuant to existing § 2.1-64.36 infra.

~~§ 2.1-64.36 2.2-1404. Interdepartmental Committee continued as Interdepartmental Board; cooperation with Department.~~

A. The Interdepartmental Committee Board established by the Director is continued and shall hereafter be known as the Interdepartmental Board. The Board shall be composed of heads of the several departments and agencies of state government or their respective assistants designated by them designees, whose functions affect minority business enterprise. The participating departments and agencies shall be determined by the Director of the Department of Minority Business Enterprise in consultation with the Governor's special assistant for minority affairs. The Interdepartmental Board shall meet at the call of the Director and shall supply the Director with information useful in promoting minority business activity.

B. The head of each participating state department and agency or their designees shall furnish information, assistance, and reports to, and shall otherwise cooperate with, the Director in the performance of his duties as needed.

C. The head of each participating state department or agency shall, when so requested by the Director, designate an assistant or such other similar official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise.

D. Each participating state department or agency shall, within constraints of law and availability of funding, continue all current efforts to foster and promote minority business enterprises and to support the minority business program, and shall cooperate with the Director in increasing the total state effort.

DRAFTING NOTE: Technical corrections only. This proposed section is comprised of the following existing sections: subsection A is § 2.1-64.36 and subsections B, C and D are § 2.1-64.37. The phrase "in consultation with the Governor's special assistant for minority affairs" in subsection A has been deleted because existing § 2.1-64.32 designates the Director of the Department of Minority Business Enterprise as the Governor's special assistant for minority affairs.

~~§ 2.1-64.37 Cooperation of other state agencies.~~

~~(a) The head of each participating state department and agency, or a representative designated by such head shall furnish information, assistance, and reports to, and shall otherwise cooperate with, the Director in the performance of his duties insofar as possible.~~

~~(b) The head of each participating state department or agency shall, when so requested by the Director, designate an assistant or such other similar official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise.~~

~~(c) Each participating state department or agency shall, within constraints of law and appropriations therefor, continue all current efforts to foster and promote minority business enterprises and to support the program herein set forth, and shall cooperate with the Director in increasing the total state effort.~~

DRAFTING NOTE: Technical corrections only. This section now appears as subsections B, C and D in proposed § 2.2-1404.

1 | ~~§ 2.1-64.38~~ 2.2-1405. Reports and recommendations; collection of data.

2 | The Director shall, from time to time, submit directly or through an assistant to the Governor his recommenda
3 | for legislation or other action as he deems desirable to promote the purposes of this chapter. The Director, with
4 | assistance of the Comptroller, shall develop and implement a systematic data collection process ~~which~~ that will provide
5 | information for a report to the Governor and General Assembly on state expenditures to minority business enterprises during
6 | the previous fiscal year.

7 | **DRAFTING NOTE:** Technical corrections only.

8 | CHAPTER 15.

9 | DEPARTMENT OF PLANNING AND BUDGET.

10 | ~~§ 2.1-388~~ 2.2-1500. Department of Planning and Budget created; appointment of Director; powers and duties.

11 | A. There is ~~heroby~~ created; a Department of Planning and Budget. ~~The Department~~ (the "Department"), which shall
12 | be headed by a Director ~~who shall be appointed by and the Governor to serve at the his pleasure of the Governor~~

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

15 | **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
16 | A is § 2.1-388 and subsection B is § 2.1-389.

17 | ~~§ 2.1-389 Powers and duties of Director.~~

18 | ~~The Director of the Department of Planning and Budget shall, under the direction and control of the Governor,~~
19 | ~~exercise such powers and perform such duties as are conferred or imposed by law upon him; and he shall perform such other~~
20 | ~~duties as may be required of him by the Governor.~~

21 | **DRAFTING NOTE:** Technical corrections. This section now appears as new subsection B in proposed § 2.2-1500.

22 | ~~§ 2.1-390. General powers of Department.~~

23 | ~~The Department shall have the following general powers:~~

24 | ~~A. To employ such personnel as may be required to carry out the purposes of this chapter.~~

25 | ~~B. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties~~
26 | ~~the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other st.~~
27 | ~~agencies and governmental subdivisions of Virginia.~~

28 | ~~C. To accept grants from the United States government and agencies and instrumentalities thereof and any other~~
29 | ~~sources. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as~~
30 | ~~may be necessary, convenient or desirable.~~

31 | ~~D. To do all acts necessary or convenient to carry out the purposes of this chapter.~~

32 | **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
33 | proposed § 2.2-601, which is located at the beginning of Chapter 6—State agencies; in Article 1, general provisions.

34 | ~~§ 2.1-394~~ 2.2-1501. Duties of Department.

35 | The Department shall have the following duties:

36 | 1. Development and direction of an integrated policy analysis, planning, and budgeting process within state
37 | government.

38 | 2. Review and approval of all sub-state district systems boundaries established or proposed for establishment by
39 | state agencies.

40 | 3. Formulation of an executive budget as required in this chapter. In implementing this provision, the Department of
41 | ~~Planning and Budget shall (i) utilize the resources and determine the manner of participation of any executive agency as the~~
42 | ~~Governor may determine necessary to support an efficient and effective budget process notwithstanding any contrary~~
43 | ~~provision of law and (ii) make an appropriate reduction in the appropriation and maximum employment level of any state~~
44 | ~~agency or institution in the executive branch of government which reports involuntary separations from employment with the~~
45 | ~~Commonwealth due to budget reductions, agency reorganizations, or workforce down sizings, or voluntary separations from~~
46 | ~~employment with the Commonwealth as provided in the second and third enactments of the act of the General Assembly~~
47 | ~~creating the Workforce Transition Act of 1995 (§ 2.1-116.20 et seq.). In the event an agency reduces its workforce through~~
48 | ~~privatization of certain functions, the funds associated with such functions shall remain with the agency to the extent of the~~
49 | ~~savings resulting from the privatization of such functions. Such~~ The budget shall include reports, or summaries thereof,
50 | provided by agencies of the Commonwealth pursuant to subsection E of § ~~2.1-20.04:4~~ 2.2-603.

51 | 4. Conduct of policy analysis and program evaluation for the Governor.

1 5. Continuous review of the activities of state government focusing on budget requirements in the context of the
2 goals and objectives determined by the Governor and the General Assembly and monitoring the progress of agencies in
3 achieving goals and objectives.

4 6. Operation of a system of budgetary execution to ~~assure~~ ensure that agency activities are conducted within fund
5 limitations provided in the ~~appropriations~~ appropriation act and in accordance with gubernatorial and legislative intent. The
6 Department shall make an appropriate reduction in the appropriation and maximum employment level of any state agency or
7 institution in the executive branch of government that reports involuntary separations from employment with the
8 Commonwealth due to budget reductions, agency reorganizations, or workforce down-sizings, or voluntary separations from
9 employment with the Commonwealth as provided in the second and third enactments of the act of the General Assembly
10 creating the Workforce Transition Act of 1995 (§ 2.2-3200.). In the event an agency reduces its workforce through
11 privatization of certain functions, the funds associated with such functions shall remain with the agency to the extent of the
12 savings resulting from the privatization of such functions.

13 7. Development and operation of a system of standardized reports of program and financial performance for
14 management.

15 8. Coordination of statistical data by reviewing, analyzing, monitoring, and evaluating statistical data developed and
16 used by state agencies and by receiving statistical data from outside sources, such as research institutes and the federal
17 government.

18 9. Assessment of the impact of federal funds on state government by reviewing, analyzing, monitoring, and
19 evaluating the federal budget, as well as solicitations, applications, and awards for federal financial aid programs on behalf of
20 state agencies.

21 10. Review and ~~verification of~~ verify the accuracy of agency estimates of receipts from donations, gifts or other
22 nongeneral fund revenue.

23 11. Development, coordination and implementation of a performance management system involving strategic
24 planning, performance measurement, evaluation, and performance budgeting within state government. The Department shall
25 ensure that information generated from these processes is useful for managing and improving the efficiency and
26 effectiveness of state government operations, and is available to citizens and public officials.

27 12. Development, implementation and management of an Internet-based information technology system to ensure
28 that citizens have access to performance information.

29 **DRAFTING NOTE:** Technical corrections. Language stricken in subdivision 3 has been reinserted in subdivision 6 based on
30 the recommendations of DPB as a more appropriate place dealing with budget execution.

31 ~~§ 2.1-51.34~~ 2.2-1502. Establishing ~~rules~~ regulations for preplanning of capital outlay projects.

32 A. The Director of the Department of Planning and Budget or his designee shall ~~prepare and issue~~ adopt regulations
33 requiring a preplanning justification or a preplanning study, or both, for all capital outlay projects undertaken by any
34 department, agency or institution of the Commonwealth. ~~Such regulations, being ones which pertain to the location, design,~~
35 ~~specifications and construction of public buildings and other facilities, shall be exempt from the provisions of the~~
36 ~~Administrative Process Act (§ 9-6.14:1 et seq.).~~ A preplanning study shall be required for any project of construction,
37 renovation, or other capital outlay involving a structure of 20,000 or more square feet or ~~which~~ that is estimated to cost one
38 million dollars or more. For projects of lesser size or cost, the regulations ~~issued by the Director~~ may require only a
39 preplanning justification of the project. ~~Furthermore, the~~ The Director or his designee may waive the requirement for a
40 preplanning justification or preplanning study for such projects of lesser size and cost when, ~~in his judgment,~~ such a
41 preplanning justification or preplanning study is not needed or would not be warranted by the cost of making one. The
42 Director shall in his regulations, by incorporation of existing administrative procedures or otherwise, determine the content
43 and scope of preplanning justifications and preplanning studies, including the definition of the terms "capital outlay project."
44 Preplanning studies for projects estimated to cost less than \$2 million shall be done at a cost not exceeding \$25,000.
45 Preplanning studies for projects estimated to cost \$2 million or more shall be done at a cost not exceeding \$50,000.
46 Exceptions to these limitations upon the cost of preplanning studies may be authorized by the House Committee on
47 Appropriations and the Senate Committee on Finance Committees.

48 B. The regulations ~~required by subsection A~~ shall (i) provide for the content and scope of preplanning justifications
49 and preplanning studies, including the definition of the terms "capital outlay project"; (ii) require consideration of locally
50 available fuels, including wood wastes, for use in new and replacement central heating plants in any proposed or existing
51 public buildings or other facilities; and (iii) shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000
52 et seq.).

53 **DRAFTING NOTE:** Technical corrections. This section was moved from the existing chapter dealing with the Secretary of
54 Administration and added to this proposed chapter on the Department of Planning and Budget for more appropriate
55 placement.

56 ~~§ 2.1-303~~ 2.2-1503. Filing of six-year revenue plan by Governor.

1 In every year, the Governor shall by December 15 prepare and submit to the members of the General Assembly an
2 estimate of anticipated general fund revenue, and estimates of anticipated revenues for each of the major nongeneral funds,
3 for a prospective period of six years.

4 The Governor's estimates of anticipated general and nongeneral fund revenues shall be based on the following:

5 1. Forecasts of economic activity in the Commonwealth.

6 2. Review by an advisory board of economists with respect to economic assumptions and technical econometric
7 methodology.

8 3. Review by an advisory council of revenue estimates with respect to economic assumptions and the general
9 economic climate of the Commonwealth. ~~The Advisory Board on Revenue Estimates is continued and shall hereafter be~~
10 ~~known as the Advisory Council on Revenue Estimates.~~ The Advisory Council on Revenue Estimates shall be comprised of
11 such representatives of the private sector as the Governor may appoint and ~~representation from the General Assembly.~~ The
12 ~~representation of the General Assembly~~ shall include the Speaker and Majority Leader of the House of Delegates, the
13 President pro tempore and Majority Leader of the Senate, and the Chairmen of the House Committees on Appropriations,
14 House and Finance, and the Senate Committee on Finance Committee, or their ~~designated representatives~~ designees.

15 4. Any such other advisory bodies as the Governor may desire.

16 **DRAFTING NOTE:** Technical corrections only. Reference to the Advisory Board on Revenue Estimates deleted as obsolete.

17 ~~§ 2-1-394~~ 2.2-1504. Estimates by state agencies of amounts needed.

18 A. Biennially in the odd-numbered years, on a date established by the Governor, each of the several state agencies
19 and other agencies and undertakings receiving or asking financial aid from the Commonwealth shall report to the Governor,
20 through the responsible secretary designated by statute or executive order, in a format prescribed for such purpose, an
21 estimate in itemized form in accordance with the expenditure classification adopted by the Governor, showing the amount
22 needed for each year of the ensuing biennial period beginning with the first day of July ~~thereafter.~~ The Governor may
23 prescribe targets ~~which that~~ shall not be exceeded in the official estimate of each agency; however, an agency may submit to
24 the Governor a request for an amount exceeding the target as an addendum to its official budget estimate.

25 B. Each agency or undertaking required to submit a biennial estimate pursuant to subsection A ~~of this section~~ shall
26 simultaneously submit an estimate of the amount ~~which that~~ will be needed for the two succeeding biennial periods beginning
27 July 1 of the third year following the year in which the ~~report estimate~~ is submitted. The Department of ~~Planning and Budget~~
28 shall provide, within thirty days following receipt, copies of all agency estimates provided under this subsection to the
29 chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

30 C. The format ~~which must be used~~ in making these ~~reports estimates~~ shall (i) be prescribed by the Governor, shall
31 (ii) be uniform for all agencies, and shall (iii) clearly designate the kind of information to be given ~~thereon.~~ The Governor may
32 prescribe a different format for ~~reports estimates~~ from institutions of higher education, which format shall be uniform for all
33 such institutions and shall clearly designate the kind of information to be provided ~~thereon.~~

34 **DRAFTING NOTE:** Technical corrections. On the recommendation of DPB, subsection A is amended to restore the statutory
35 basis for expenditure classification system for executive branch agencies consistent with the requirements of existing § 2.1-
36 395 (proposed § 2.2-1506) for legislative and judicial agencies.

37 ~~§ 2-1-394.1~~ 2.2-1505. Estimates by nonstate agencies of amounts needed.

38 A. Except as provided in §§ 10.1-2211, 10.1-2212 and 10.1-2213, no state funds shall be appropriated or expended
39 for, or to, nonstate agencies unless:

40 1. A request for state aid is filed by the organization with the Department of Planning and Budget, as required by §
41 ~~2-1-394~~ 2.2-1504.

42 2. ~~Such~~ The nonstate agency ~~shall certify~~ certifies to the satisfaction of the Department that matching funds are
43 available in cash from local or private sources in an amount at least equal to the amount of the request. These matching
44 funds ~~must~~ shall be concurrent with the purpose for which state funds are requested. Contributions received and spent prior
45 to the state grant shall not be considered in satisfying the requirements of this subdivision.

46 3. ~~Such~~ The nonstate agency ~~shall provide~~ provides documentation of its tax exempt status under applicable
47 ~~provisions~~ § 501 (c) (3) of the United States Internal Revenue Code.

48 B. Except as provided in §§ 23-38.11 through 23-38.18, no state funds shall be appropriated to, or expended for, a
49 private institution of higher education or religious organization.

50 C. ~~Requests for the appropriation of funds for nonstate agencies shall be considered by the Governor and the~~
51 ~~General Assembly only in even numbered years.~~

52 D. For the purposes of this section, a "nonstate agency" ~~shall mean~~ means any public or private foundation,
53 authority, institute, museum, corporation or similar organization ~~which that~~ is not a unit of state government or a political
54 subdivision of the Commonwealth as established by general law or special act. It shall not ~~mean~~ include any such entity
55 ~~which that~~ receives state funds as a subgrantee of a state agency or through a state grant-in-aid program authorized by law.

DRAFTING NOTE: Technical corrections. On the recommendation of DPB, existing subsection C, relating to the prohibition against consideration in odd numbered years, has been deleted because it does not represent current practice.

3 ~~§ 2.1-394.2. Overall spending target set by the General Assembly.~~

4 ~~The General Assembly, by joint resolution adopted on or before May 1 in odd-numbered years, may prescribe an~~
5 ~~overall spending target for the biennial period beginning with July 1 of the next even-numbered year. The target shall be the~~
6 ~~basis for the preparation of a budget plan and bill by the Governor for the regular session of the General Assembly in the next~~
7 ~~even-numbered year. Notwithstanding any overall spending target adopted by the General Assembly under this section, the~~
8 ~~Governor may submit to the General Assembly a different budget plan and bill which may be greater than or less than any~~
9 ~~target established by the General Assembly.~~

10 **DRAFTING NOTE:** This section has been deleted on the recommendation of the Code Commission as obsolete and contrary
11 to practice.

12 ~~§ 2.1-395 2.2-1506. Estimates of financial needs of General Assembly and judiciary.~~

13 ~~On or before the first day of September biennially in the odd-numbered years the Committees on Rules of the House~~
14 ~~of Delegates and the Senate shall furnish the Governor an estimate of the financial needs of the General Assembly, itemized~~
15 ~~in strict accordance with the budget classifications adopted by the Governor, for each year of the ensuing biennial period~~
16 ~~beginning with the first day of July thereafter; and the Supreme Court of Virginia shall furnish to the Governor an estimate of~~
17 ~~the financial needs of the judiciary, as provided by law, itemized in strict accordance with the budget classifications adopted~~
18 ~~by the Governor, for each year of the ensuing biennial period beginning with the first day of July thereafter. The Committees~~
19 ~~on Rules of the House of Delegates and the Senate and the Supreme Court shall transmit to the Governor with these the~~
20 ~~estimates full and detailed explanations of all increases or decreases.~~

21 **DRAFTING NOTE:** Technical corrections. This section has been amended to reflect current budgetary practice.

22 ~~§ 2.1-396. Hearings on estimates.~~

23 ~~The Governor shall provide for public hearings on any and all estimates to be included in the budget, which shall be~~
24 ~~held prior to completion of his plan of expenditures for the ensuing biennial period biennially in odd-numbered years. The~~
25 ~~Governor may require the attendance at these hearings of the heads or responsible representatives of all state departments,~~
~~bureaus, divisions, offices, boards, commissions, institutions, or other agencies or undertakings receiving or asking financial~~
~~aid from the Commonwealth.~~

28 **DRAFTING NOTE:** This section deleted on the recommendation of DPB because in practice it is unusable given the time
29 constraints of the budget process. In addition, this section has been preempted by the legislative hearings prescribed in
30 existing § 2.1-399.2 (proposed § 2.2-1510).

31 ~~§ 2.1-397. Survey of state agencies.~~

32 ~~On or before the first day of January biennially in the even-numbered years the Governor and his assistants must~~
33 ~~have completed a careful survey of all the departments, bureaus, divisions, offices, boards, commissions, institutions, and~~
34 ~~other agencies and undertakings of the Commonwealth through which he shall be in possession of the working knowledge~~
35 ~~upon which to base his recommendations to the General Assembly.~~

36 **DRAFTING NOTE:** This section deleted on the recommendation of DPB because the objective of this provision is effected,
37 for all practical purposes, during the development of the budget bill.

38 ~~§ 2.1-397.1 2.2-1507. Participation of certain agencies in budget development process of other agencies.~~

39 ~~Agencies having responsibilities granted under §§ 2.1-373, 2.1-563.17, 2.1-563.18, 2.2-703, 2.2-1303, and 37.1-207~~
40 ~~shall participate in the budget development process of relevant agencies and receive from these agencies, prior to~~
41 ~~submission to the Department of Planning and Budget, their proposed programs and budgets. Recommendations to the~~
42 ~~appropriate agencies and the secretaries of the Governor on related matters shall be made prior to budget submissions.~~

43 **DRAFTING NOTE:** Technical corrections only.

44 ~~§ 2.1-398 2.2-1508. Submission of executive budget to General Assembly.~~

45 ~~A. On or before December 20 in the year immediately prior to the beginning of each regular session of the General~~
46 ~~Assembly held in an even-numbered year of the General Assembly, the Governor shall submit to the presiding officer of each~~
47 ~~house of the General Assembly printed copies of a budget document, which shall be known as "The Executive Budget,"~~
48 ~~based on his own conclusions and judgment, containing the following:~~

49 ~~1. For each agency, the amount and number of positions appropriated for the current appropriation year and the~~
50 ~~amount and number of positions recommended for each year of the ensuing biennial period beginning with the first day of~~
~~July thereafter, accompanied by an explanation of the recommended amount and number of positions.~~

1 ~~4.2. A statement of historical and projected trends which that influence development, natural and human resources~~
2 ~~and the general economic conditions in the Commonwealth, and projections pertaining to population, transportation,~~
3 ~~commerce, agriculture, and urbanization. In addition to utilizing such statement in the preparation of his budget, the Govern-~~
4 ~~or shall use such statement for the purpose of coordinating programs of planning district commissions, regional development~~
5 ~~authorities, and local governments with those of state agencies and a statement of the economic assumptions upon which~~
6 ~~revenue projections are based.~~

7 ~~2-3. A statement of the Governor's proposed goals, objectives, and policies in the areas of:~~

8 ~~(a) a. Administration of justice;~~

9 ~~(b) b. Education, including intellectual and cultural development;~~

10 ~~(c) c. Individual and family services;~~

11 ~~(d) d. Resources and economic development, including specific references to economic development and~~
12 ~~management of natural resources;~~

13 ~~(e) e. Transportation; and~~

14 ~~(f) f. General government, including therein or as separate categories areas of multiple impact, such as~~
15 ~~telecommunications, energy, and urban development.~~

16 ~~3-4. A statement organized by function, primary agency, and proposed appropriation item which that sets forth:~~

17 ~~(a) a. Identification of common programs and services;~~

18 ~~(b) b. Service attainments or lack of attainments and service terminations or reductions for the biennium;~~

19 ~~(c) c. Major goals and objectives for programs;~~

20 ~~(d) d. Program measures to be used in monitoring and evaluating services; and as specified in the general~~
21 ~~appropriations act; and~~

22 ~~(e) e. The amount of each primary agency's budget that is direct aid to localities.~~

23 ~~4. An "executive salary plan" recommending levels into which the position of each cabinet secretary and~~
24 ~~administrative head of each agency and institution of the executive branch of state government should be placed for salary~~
25 ~~purposes, salary ranges for each of these recommended levels, and the basis for the recommendations contained in the plan.~~

26 ~~5. A statement of proposed capital appropriations organized by the primary agency that sets forth the program need~~
27 ~~for the project and the proposed source of funding.~~

28 B. On or before December 20 of the year immediately prior to the beginning of the regular session of the Gen
29 Assembly held in odd-numbered years, the Governor shall submit to the presiding officer of each house of the General
30 Assembly printed copies of a budget document, which shall be known as "Executive Amendments to the Appropriation Act,"
31 describing all gubernatorial amendments proposed to the general appropriation act enacted in the immediately preceding
32 even-numbered session.

33 **DRAFTING NOTE:** This section has been amended on the recommendation of DPB to (i) replace the term "appropriation
34 item" with "agency" since positions are appropriated for the entire agency and not for individual appropriation items and (ii)
35 provide a statutory basis for the odd-year budget document. This section as amended also clarifies the distinction between
36 the budget document and the budget bill.

37 § 2-1399 2.2-1509. Budget bill.

38 A. On or before December 20 of the year immediately prior to the beginning of each regular session of the General
39 Assembly held in an even-numbered year of the General Assembly, the Governor also shall submit to the presiding officer of
40 each house of the General Assembly, at the same time he submits his budget "The Executive Budget," copies of a tentative
41 bill for all proposed appropriations of the budget, for each year in the ensuing biennial appropriation period, which shall be
42 known as "The Budget Bill." "The Budget Bill" shall be organized by function, primary agency, and proposed appropriation
43 item and shall include an identification of, and authorization for, common programs and the appropriation of funds according
44 to programs. Except as expressly provided in an appropriation act, whenever the amounts in a schedule for a single
45 appropriation item are shown in two or more lines, the portions of the total amount shown on separate lines are for information
46 purposes only and are not limiting. No such bill shall contain any appropriation the expenditure of which is contingent upon
47 the receipt of revenues in excess of funds unconditionally appropriated. The salary proposed for payment for the position of
48 each cabinet secretary and administrative head of each agency of the executive branch of state government shall be
49 specified in "The Budget Bill."

50 B. The salary proposed for payment for the position of each cabinet secretary and administrative head of each
51 agency and institution of the executive branch of state government shall be specified in "The Budget Bill," showing the salary
52 ranges and levels proposed for such positions.

53 C. "The Budget Bill" shall include all proposed capital appropriations, including each capital project to be financed
54 through revenue bonds or other debt issuance, the amount of each project, and the identity of the entity that will issue the
55 debt.

1 D. Concurrently with the submission of "The Budget Bill," the Governor shall submit a tentative bill involving a
2 request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to be
3 made in whole or in part, from revenues or appropriations contained in "The Budget Bill."

4 ~~BE.~~ On or before December 20 of the year immediately prior to the beginning of each regular session held in an odd-
5 numbered year of the General Assembly, the Governor shall submit to the presiding officer of each house printed copies of all
6 gubernatorial amendments proposed to the general appropriation act adopted in the immediately preceding even-numbered
7 year session. In preparing the amendments, the Governor may obtain estimates in the manner prescribed in §§ 2.2-1504, 2.2-
8 1505, and 2.2-1506. On the same date he shall also submit a tentative bill during the second year of the appropriation period,
9 a request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to
10 be made in whole or in part, from revenues or appropriations contained in the proposed gubernatorial amendments.

11 **DRAFTING NOTE:** On the recommendation of DPB, this section represents a merger of existing §§ 2.1-399 and 2.1-399.1
12 as follows: proposed subsections A and E are derived from § 2.1-399 except the last two sentences of proposed subsection
13 E, which are derived from § 2.1-399.1. Proposed subsections B through D are derived from § 2.1-399.1 with minor
14 amendments. Additionally, the last sentence in proposed subsection A has been deleted as duplicative of proposed
15 subsection B.

16 § 2.1-399.1. Capital projects; debt legislation.

17 ~~A. On or before December 20 of the year immediately prior to the beginning of each regular session held in an even-~~
18 ~~numbered year of the General Assembly, the Governor shall submit to the presiding officer of each house of the General~~
19 ~~Assembly copies of any tentative bill or bills involving, for each year in the ensuing biennial appropriation period, (i) proposed~~
20 ~~capital appropriations or (ii) the request for authorization of additional bonded indebtedness if its issuance is authorized by, or~~
21 ~~its repayment is proposed to be made in whole or in part from appropriations contained in, the budget bill submitted pursuant~~
22 ~~to § 2.1-399. Such bill or bills shall include each capital project to be financed through revenue bonds or other debt issuance,~~
23 ~~the amount of each such project, and the identity of the entity which will issue such debt. Notwithstanding any other provision~~
24 ~~of law, the Governor may recommend, and the General Assembly may make, an appropriation of special fund revenues~~
25 ~~derived from the operations of the medical centers of Virginia Commonwealth University and the University of Virginia that~~
26 ~~may be used, as directed by such universities, in connection with the ownership and operation of their medical centers and~~
27 ~~related health care and educational activities, including operating expenses and debt service.~~

28 ~~B. On or before December 20 of the year immediately prior to the beginning of each regular session held in an odd-~~
29 ~~numbered year of the General Assembly, the Governor shall submit to the presiding officer of each house printed copies of (i)~~
30 ~~all gubernatorial amendments proposed to capital appropriations acts adopted in the immediately preceding even-numbered~~
31 ~~year session and (ii) copies of any tentative bill or bills involving, during the second year of the appropriation period, the~~
32 ~~request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to be~~
33 ~~made in whole or in part from appropriations contained in, the budget bill submitted pursuant to § 2.1-399.~~

34 **DRAFTING NOTE:** This section has been merged with proposed § 2.2-1509 as subsections B through D, with minor
35 amendments. On the recommendation of DPB, redundant and unnecessary language pertaining to special fund
36 appropriations for the medical centers at UVA and VCU has been deleted since this authority is contained within the general
37 authority for development of the Budget Bill. Additionally, MCV Hospitals is no longer a state agency.

38 § 2.1-399.2 2.2-1510. Publication of budget highlights; public hearings.

39 A. The Governor shall ensure that a summary of the highlights of each budget submitted pursuant to ~~§ 2.1-399.2-~~
40 ~~1508~~ and set of amendments submitted pursuant to subsection ~~B-E~~ of ~~§ 2.1-399-2.2-1509~~ be are sent to a newspaper of
41 general circulation in the following geographical areas of the Commonwealth: Northern Virginia, Hampton Roads,
42 Richmond/Petersburg, Central Virginia, Shenandoah Valley, Roanoke Valley, Southside, and Southwest Virginia prior to the
43 convening of each session of the General Assembly.

44 B. The House Committee on Appropriations and the Senate Committee on Finance shall hold at least four regional
45 public hearings on the budget bill submitted by the Governor. The four public hearings shall be held prior to the convening of
46 such session of the General Assembly, at hearing sites and times as selected by the chairmen of the two committees.

47 **DRAFTING NOTE:** Technical corrections. The words "at least" have been inserted in subsection B to reflect current practice
48 because more than four regional public hearings are held.

49 § 2.1-400 2.2-1511. Consideration of budget by committees.

50 The standing committees of the House of Delegates and of the Senate ~~being~~ in charge of appropriation measures
51 shall begin consideration of the budget within five ~~calendar days~~ after the budget has been submitted to the General
52 Assembly by the Governor ~~the convening of the regular session of the General Assembly to which the budget is submitted.~~
53 The committees or subcommittees thereof, may meet jointly on ~~such~~ matters concerning the budget ~~and~~ at such times as the
54 chairmen of the two committees deem ~~the work of the committees to be facilitated thereby~~ appropriate. The committees or
55 subcommittees may cause the attendance of heads or responsible representatives of the departments, institutions and all
56 other agencies of the Commonwealth to furnish such information and answer such questions as they ~~shall~~ require, ~~and to~~

1 ~~these sessions shall be admitted, with the right to be heard, all~~ All persons interested in the matters under consideration shall
2 be admitted to the meetings and shall have the right to be heard.

3 **DRAFTING NOTE:** Technical corrections. On the recommendation of DPB, "calendar" was inserted after five to clarify the
4 time threshold for consideration of the budget, as well as to clarify that consideration of the budget by the General Assembly
5 begins after the convening of the General Assembly session.

6 ~~§ 2.1-401. Changes in budget bill by General Assembly.~~

7 ~~The General Assembly may increase or decrease items in the budget bill as it may deem to be in the interest of~~
8 ~~greater economy and efficiency in the public service, but neither house shall consider further or special appropriations, except~~
9 ~~in case of an emergency, which fact shall be clearly stated in the bill therefor, until the budget shall have been finally acted~~
10 ~~upon by both houses. All bills introduced in either house carrying appropriations shall be itemized in accordance with the~~
11 ~~classifications used in the budget.~~

12 **DRAFTING NOTE:** This section has been deleted on the recommendation of the Code Commission as obsolete and also
13 because its provisions are covered by the Virginia Constitution.

14 ~~§ 2.1-402 2.2-1512.~~ Financial statements by Comptroller.

15 On or before August 15 biennially in the odd-numbered years, the Comptroller shall furnish to the Department of
16 ~~Planning and Budget~~ the following statements, classified and itemized in strict accordance with the budget classifications
17 adopted by the Governor:

18 1. A statement showing the balance standing to the credit of the several appropriations for each department, bureau,
19 division, office, board, commission, institution, or other agency or undertaking of the Commonwealth at the end of the last
20 preceding appropriation year.

21 2. A statement showing the monthly expenditures from each appropriation account, and the total monthly
22 expenditures from all the appropriation accounts, including special and all other appropriations, in the twelve months of the
23 last preceding appropriation year.

24 3. A statement showing the annual revenues and expenditures in each fund.

25 4. An itemized and complete financial balance sheet for the Commonwealth at the close of the last preceding fiscal
26 year ending June 30.

27 5. Such other statements as requested by the Governor ~~shall request~~.

28 **DRAFTING NOTE:** Technical corrections only.

29 ~~§ 2.1-403. Reports by state agencies to Governor.~~

30 ~~The departments, bureaus, divisions, offices, boards, commissions, institutions, or other agencies or undertakings of~~
31 ~~the Commonwealth, upon request, shall immediately furnish to the Governor, in such form as he may require, any information~~
32 ~~desired by him in relation to their respective affairs or activities.~~

33 **DRAFTING NOTE:** Technical corrections. This section has been deleted as duplicative of existing § 2.1-42 (proposed § 2.2-
34 110) found in Part A of Subtitle I in Chapter 1 dealing with powers and duties of the Governor.

35 ~~§ 2.1-404 2.2-1513.~~ Submission of additional information to legislative committees.

36 To enable the House of Delegates Committee on Appropriations and the Senate Committee on Finance to fully carry
37 out perform their prescribed duties, all departments, agencies and institutions of the Commonwealth, their staff and
38 employees shall, upon request, provide such committees with any additional information, as may be deemed necessary, and
39 allow such committees ample opportunity to ~~physically~~ observe the department's, agency's or institution's daily operations.
40 ~~The Department of Human Resource Management shall present a report, submitted on or before September 30 of each year,~~
41 ~~of the number of employees who voluntarily and involuntarily terminated their employment with each department, agency, or~~
42 ~~institution in the previous fiscal year.~~

43 **DRAFTING NOTE:** On the recommendation of DPB the last sentence of this section was moved to the proposed chapter
44 dealing with the Department of Human Resource Management as a more appropriate placement.

45 CHAPTER 16.

46 DEPARTMENT OF THE STATE INTERNAL AUDITOR.

47 ~~§ 2.1-234.29 2.2-1600.~~ Department created; appointment of State Internal Auditor; staff support.

48 There is ~~hereby~~ created a Department of the State Internal Auditor (the "Department"). The Department shall be an
49 agency under the direction of the Secretary of Finance. The State Internal Auditor shall be selected by and report directly to
50 the Secretary of Finance. The State Internal Auditor shall be either a certified public accountant or a certified internal auditor.

The State Internal Auditor, in order to provide continuity to the state's internal audit program, shall be a classified position subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.).

The Secretary of Finance shall assign responsibility for the Department's administrative support services to one or more state agencies within responsibility of his Secretariat.

The Department of the State Internal Auditor is established to shall provide for the development and maintenance of internal audit programs in state agencies in order to ensure that the Commonwealth's assets are subject to appropriate internal management controls.

Appropriate internal management controls assist in safeguarding assets, ensuring accurate accounting and reporting of financial transactions, and in providing effective and efficient management.

DRAFTING NOTE: Technical corrections. This proposed section is principally comprised of § 2.1-234.29. The second paragraph comes from existing § 2.1-234.33, and the last two sentences in the first paragraph are from existing § 2.1-234.30.

~~§ 2.1-234.30. Qualifications and personnel status of the State Internal Auditor.~~

~~The State Internal Auditor shall be either a certified public accountant or a certified internal auditor. The State Internal Auditor, in order to provide continuity to the state's internal audit program, shall be a classified position subject to the provisions of the Virginia Personnel Act (§ 2.1-110 et seq.).~~

DRAFTING NOTE: Technical corrections. This section now appears as the last paragraph in proposed § 2.2-1600 supra.

~~§ 2.1-234.31. General powers of the Department.~~

~~The Department shall have the following general powers:~~

~~1. To employ such personnel as may be required to carry out the purposes of this chapter;~~

~~2. To make and enter into contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter;~~

~~3. To accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable; and~~

~~4. To do all acts necessary or convenient to carry out the purposes of this chapter.~~

DRAFTING NOTE: Technical corrections. The stricken language has been consolidated with other like provisions into proposed § 2.2-601, which is located at the beginning of Chapter 6—State agencies; in Article 1, general provisions.

~~§ 2.1-234.32 2.2-1601. Duties of the Department.~~

A. The Department shall have the following duties to:

1. Establish state policies, standards, and procedures which that will ensure an effective internal audit program in all state agencies;

2. Provide technical information to state agencies concerning trends and new techniques in internal auditing;

3. Develop evaluative tools and other modern methods to assist agency internal auditors in performing audits;

4. Assist state agencies in developing and implementing automated data processing internal audit programs in the Commonwealth;

5. Provide general technical and audit assistance to agency internal auditors and to the Auditor of Public Accounts and the Governor on request;

6. Assist agency heads and collegial bodies in establishing and operating internal audit organizations;

7. Assist in the professional development of agency internal auditors by developing and conducting training programs;

8. Examine the adequacy of agency internal audit programs through periodic assessments of such programs and provide the Governor, Governor's Secretaries, the State Comptroller, the Director of the Department of Planning and Budget, and agency heads with the results of such assessments;

9. Develop, in conjunction with the State Comptroller, the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and other appropriate state officials, a plan for accommodating the internal audit needs of agencies that do not require full-time internal auditors; and

10. Prepare a biennial report for the Governor, Governor's Secretaries, Auditor of Public Accounts, and appropriate agency heads on the status of agency internal audit programs generally, and on agency adherence to other legislative requirements on internal auditing.

1 ~~B. The provisions included above of subsection A shall not infringe upon responsibilities assigned to the Comptroller~~
2 ~~the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by other provisions of the Code of~~
3 ~~Virginia.~~

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 2.1-234.33. Responsibility for administrative support.~~

6 ~~The Secretary of Finance shall assign responsibility for the Department's administrative support services to one or~~
7 ~~more state agencies within the executive responsibility of the Secretary.~~

8 **DRAFTING NOTE:** Technical corrections. This section has been merged with proposed § 2.2-1600 as the last sentence in
9 the first paragraph of that section.

10 ~~§ 2.1-234.34 2.2-1602. Review of these provisions Department; report to Governor and General Assembly.~~

11 ~~On November 1, 1993, and every four years thereafter, Every four years the duties of the Department of the State~~
12 ~~Internal Auditor shall be reviewed by the Secretary of Finance to determine if whether the duties of the Department they~~
13 ~~should be restructured or eliminated. A report of the Secretary of Finance's determination shall be provided to the Governor~~
14 ~~and the General Assembly.~~

15 **DRAFTING NOTE:** Technical corrections only.

16 CHAPTER 17.

17 DEPARTMENT OF TECHNOLOGY PLANNING.

18 Article 1.

19 General Provisions.

20 ~~§ 2.1-563.35:1 2.2-1700. Creation of Department; appointment of Director.~~

21 ~~A. There is hereby created a Department of Technology Planning The Department (the "Department"), which shall~~
22 ~~be headed by a Director appointed by the Governor to serve at his pleasure for a term coincident with his own.~~

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

25 ~~Whenever in this title and in the Code of Virginia reference is made to a division, department, or agency herein~~
26 ~~transferred to this Department, it shall mean the Department of Technology Planning.~~

27 **DRAFTING NOTE:** Technical corrections. Subsection A has been amended to comply with existing § 2.1-41.2, which
28 requires that all agency heads appointed by the Governor shall be subject to confirmation by the General Assembly, shall
29 have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor.

30 ~~§ 2.1-563.35:2. Powers and duties of Director.~~

31 ~~The Director of the Department of Technology Planning shall, under the direction and control of the Governor,~~
32 ~~exercise such powers and perform such duties as are conferred or imposed upon him by law and he shall perform such other~~
33 ~~duties as may be required of him by the Governor.~~

34 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-1700.

35 ~~§ 2.1-563.35:3 2.2-1701. General Additional powers of Department.~~

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

38 ~~1. Employ such personnel as may be required to carry out the purpose of this chapter.~~

39 ~~2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the~~
40 ~~execution of its powers, including, but not limited to, contracts with the United States, other state agencies, and political~~
41 ~~subdivisions of the Commonwealth.~~

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

45 ~~4.1. Prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers~~
46 ~~conferred under this chapter.~~

47 ~~5. Do all acts necessary, convenient, or desirable to carry out the purpose of this chapter.~~

48 ~~B. The Department shall have the following powers and duties concerning the planning, budgeting, acquiring, using,~~
49 ~~disposing, managing, and administering of information technology:~~

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

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

5 ~~3. To assist~~ 4. Assist the Secretary of Technology in the development of statewide policies affecting technology at all
6 levels of government, in the business sector, and among the general citizenry.

7 ~~4. To provide~~ 5. Provide agencies and institutions of higher education with information and guidelines in the
8 development of information management plans and the preparation of budget requests for information technology ~~which that~~
9 are consistent with the policies and procedures developed by the Secretary of Technology, in consultation with the
10 Department of Planning and Budget, for integrating such plans and requests into the Commonwealth's strategic planning and
11 performance budgeting processes.

12 ~~5. To review~~ 6. Review information management plans submitted by agencies and institutions of higher education to
13 the Secretary of Technology. The Department shall recommend to the Secretary of Technology the approval of such plans
14 and any amendments thereto.

15 ~~6. To monitor~~ 7. Monitor implementation of information management plans and periodically report its findings to the
16 Secretary of Technology.

17 ~~7. To develop~~ 8. Develop and promulgate adopt policies, standards, and guidelines for managing information
18 technology in the Commonwealth.

19 ~~8. To review~~ 9. Review agency and institution budget requests for information technology and recommend to the
20 Secretary of Technology budget request priorities for consideration by the Department of Planning and Budget.

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

23 ~~10. To develop~~ 11. Develop an approval process to ensure that all information technology procurements conform to
24 the statewide information management plan and the information management plans of agencies and institutions of higher
25 education.

26 ~~11. To develop~~ 12. Develop statewide standards for the efficient exchange of electronic information and technology,
27 including infrastructure, between the public and private sectors in the Commonwealth.

28 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
29 proposed § 2.2-600, which is located at the beginning of Chapter 6—State agencies; in Article 1, general provisions.

30 Article 2.

31 Virginia Technology Infrastructure Fund.

32 ~~§ 9-145.52. Purpose.~~

33 ~~In order for the Commonwealth to fully take advantage of technological applications in providing services and solving~~
34 ~~problems of Virginia's citizens, there is a need to reinvest savings that accrue from increased usage of technology into new~~
35 ~~and emerging technologies that will provide for both greater efficiencies and better responsiveness. The purpose of this~~
36 ~~chapter is to create the Virginia Technology Infrastructure Fund. The Fund shall make moneys available to state agencies~~
37 ~~and institutions of higher education for information technology demonstration and pilot projects.~~

38 **DRAFTING NOTE:** Technical corrections. This section now appears in as subsection B in proposed § 2.2-1702.

39 ~~§ 9-145.53~~ 2.2-1702. Definitions; purpose.

40 A. As used in this chapter article, unless the context clearly provides otherwise requires a different meaning:

41 "Costs" means the reasonable and customary charges for goods and services incurred or to be incurred in the
42 establishment of information technology demonstration and pilot projects.

43 "Fund" means the Virginia Technology Infrastructure Fund.

44 "Technology infrastructure" means telecommunications, automated data processing, word processing and
45 management information systems, and related information, equipment, goods and services.

46 B. In order for the Commonwealth to take advantage of technological applications in providing services and solving
47 problems of Virginia's citizens, there is a need to reinvest savings that accrue from increased usage of technology into new
48 and emerging technologies that will provide for both greater efficiencies and better responsiveness. The purpose of this
49 article is to create the Virginia Technology Infrastructure Fund (the "Fund"). The Fund shall make moneys available to state
50 agencies and institutions of higher education for information technology demonstration and pilot projects.

51 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
52 A is § 9-145.53 and subsection B is § 9-145.52.

1 ~~§ 9-145.54 2.2-1703.~~ Virginia Technology Infrastructure Fund created; ~~purpose~~ contributions.

2 A. The Virginia Technology Infrastructure Fund is hereby created in the state treasury. The Fund is to be used
3 exclusively for telecommunications and information technology projects which that benefit state government as a whole and
4 which that serve more than one state agency or institution of higher education.

5 B. The Fund shall consist of savings that accrue to the Commonwealth's agencies and instrumentalities from
6 reductions in (i) local or long-distance telecommunications service charges and (ii) computer services rates charged by the
7 Department of Information Technology, not to exceed \$200,000 in each fiscal year. For institutions of higher education,
8 however, the savings shall consist only of savings in general fund dollars that accrue to such institutions from the reduction in
9 such charges or rates.

10 Interest earned on the Fund shall be credited to the Fund. The Fund shall be permanent and nonreverting. Any
11 unexpended balance in the Fund at the end of the biennium shall not be transferred to the general fund of the state treasury.

12 When charges for local or long-distance telecommunications services or rates for computer services are reduced by the
13 Department of Information Technology, vendors, or state agencies or instrumentalities, the calculated savings data by fund
14 source for each affected state agency or instrumentality shall be provided to the Department of Planning and Budget. In
15 accordance with its authority to do so in the general appropriation act, the Department of Planning and Budget shall then
16 administratively reduce each affected agency's or instrumentality's appropriation and transfer the agreed-upon savings to the
17 Fund. DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections:
18 subsection A § 9-145.54 and subsection B is § 9-145.55.

19 ~~§ 9-145.55. Contributions to the Fund.~~

20 ~~The Virginia Technology Infrastructure Fund shall consist of savings which accrue to the Commonwealth's agencies~~
21 ~~and instrumentalities from reductions in (i) local or long-distance telecommunications service charges and (ii) computer~~
22 ~~services rates charged by the Department of Information Technology, not to exceed \$200,000 in each fiscal year. However,~~
23 ~~for institutions of higher education, the savings shall consist only of savings in general fund dollars which accrue to such~~
24 ~~institutions from the reduction in such charges or rates.~~

25 ~~Interest earned on the Fund shall be credited to the Fund. The Fund shall be permanent and nonreverting. Any~~
26 ~~unexpended balance in the Fund at the end of the biennium shall not be transferred to the general fund of the state treasury.~~

27 ~~When charges for local or long distance telecommunications services or rates for computer services are reduced by~~
28 ~~the Department of Information Technology, vendors, or state agencies or instrumentalities, the calculated savings data by~~
29 ~~fund source for each affected state agency or instrumentality shall be provided to the Department of Planning and Budget. In~~
30 ~~accordance with its authority to do so in the general appropriations act, the Department of Planning and Budget shall then~~
31 ~~administratively reduce each affected agency's or instrumentality's appropriation and transfer the agreed-upon savings to the~~
32 ~~Fund.~~

33 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-1703 supra.

34 ~~§ 9-145.56 2.2-1704.~~ Annual plan; allowable uses of Fund.

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

40 **DRAFTING NOTE:** Technical corrections only.

41 Article 3.

42 Virginia Geographic Information Network.

43 ~~§ 2-1-563.36 2.2-1705.~~ Definitions.

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

45 "Base map data" means the digitized common geographic data that are used by most geographic information
46 systems applications to reference or link attribute or other geographic data.

47 "Board" means the Virginia Geographic Information Network Advisory Board.

48 "Department" means the Department of Technology Planning.

49 "Director" means the Director of the Department of Technology Planning.

50 "Division" means the Geographic Information Network Division.

51 "Geographic data" means data that contain either coordinates that reference a geographic location or area or
52 attribute data that can be related to a geographic area or location.

"Geographic information system (GIS)" means a computerized system that stores and links geographic data to allow a wide range of information processing and display operations, as well as map production, analysis, and modeling.

DRAFTING NOTE: Technical corrections only. The definition of "Board" has been deleted here since sections dealing with the Virginia Geographic Information Network Advisory Board have been moved to Part D of Subtitle I under the heading of "Boards."

~~§ 2-1-563.37~~ 2.2-1706. Geographic Information Network Division established.

There is hereby established within the Department of ~~Technology Planning~~ a Geographic Information Network Division (the "Division"), which shall foster the creative utilization of geographic information and oversee the development of a catalog of GIS data available in the Commonwealth. The Division shall be headed by a ~~coordinator~~ Coordinator who shall be under the supervision of and report to the Director. The Division shall exercise the powers and duties conferred in this article.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-563.38~~ 2.2-1707. Powers and duties of the Division; Division coordinator.

A. The powers and duties of the Division shall include:

1. Requesting the services, expertise, supplies and facilities of the Department from the Director on issues concerning the Division.

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

3. Fixing, altering, charging, and collecting rates, rentals, and other charges for the use or sale of products of, or services rendered by, the Division, at rates which reflect the fair market value.

4. Soliciting, receiving, and considering proposals for funding projects or initiatives from any state or federal agency, local or regional government, institution of higher education, nonprofit organization, or private person or corporation.

5. Soliciting and accepting funds, goods and in-kind services that are part of any accepted project proposal.

6. Establishing ad hoc committees or project teams to investigate related technology or technical issues and providing results and recommendations for Division action.

7. Establishing such bureaus, sections or units as the Division deems appropriate to carry out its powers and duties.

B. The ~~Division shall have a coordinator, under the supervision of the Director, who~~ Coordinator shall:

1. Oversee the development of and recommend to the ~~Council~~ Department the promulgation of those policies and guidelines required to support state and local government exchange, acquisition, storage, use, sharing and distribution of geographic or base map data and related technologies.

2. Foster the development of a coordinated comprehensive system for providing ready access to electronic state government geographic data products for individuals, businesses, and other entities.

3. Initiate and manage projects or conduct procurement activities relating to the development or acquisition of geographic data and/or statewide base map data.

4. Plan for and coordinate the development or procurement of priority geographic base map data.

5. Develop, maintain, and provide, in the most cost-effective manner, access to the catalog of Virginia geographic data and governmental geographic data users.

6. Provide, upon request, advice and guidance on all agreements and contracts from all branches of state government for geographic data acquisition and design and the installation and maintenance of geographic information systems.

7. Compile a data catalog consisting of descriptions of GIS coverages maintained by individual state and local government agencies.

Nothing in this article shall be construed to require that GIS data be physically delivered to the Division. All state agencies that maintain GIS data bases shall report to the Division the details of the data that they develop, acquire, and maintain. ~~This information shall be reported to the Division no later than June 30, 1998, after which each~~ Each agency shall submit quarterly reports to the Division specifying all updates to existing data as well as all data development and acquisition currently in progress. Data exempt from the Virginia Freedom of Information Act (~~§ 2-1-340~~ 2.2-3700 et seq.) need not be reported to the Division.

8. Identify and collect information and technical requirements to assist the Division in setting priorities for the development of state digital geographic data and base maps that meet the needs of state agencies, institutions of higher education, and local governments.

9. Provide services, geographic data products and access to the repository at rates established by the Division.

1 10. Ensure the compliance of those policies, standards, and guidelines developed by the Department required
2 support and govern the security of state and local government exchange, acquisition, storage, use, sharing, and distrib
3 of geographic or base map data and related technologies.

4 **DRAFTING NOTE:** Technical corrections only.

5 § ~~2.1-563.302~~ 2.2-1708. GIS Fund created.

6 There is hereby created in the state treasury a special, nonreverting fund to be known as the GIS Fund, hereafter
7 referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected pursuant to
8 subsection A of § ~~2.1-563.30~~ 2.2-1707 shall be paid into the state treasury and credited to the Fund. Interest earned on
9 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest
10 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund
11 shall be used solely for the purposes set forth in this article. Expenditures and disbursements from the Fund shall be made by
12 the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

13 **DRAFTING NOTE:** Technical corrections only.

14 § ~~2.1-563.40~~ 2.2-1709. Additional powers and duties of Director of the Department.

15 The Director of the Department of ~~Technology Planning~~ shall have the power and duty, on the recommendation of
16 the Coordinator, to (i) receive and ~~disburse~~ disburse funds; (ii) enter into contracts for the purpose of carrying out the
17 provisions of this article; and (iii) rent office space and procure equipment, goods, and services that are necessary to carry
18 out the provisions of this article; ~~and (iv) employ full-time or part-time personnel and fix their compensation.~~

19 **DRAFTING NOTE:** Technical corrections only. Clause (iv) was deleted as duplicative of the general powers of agency
20 directors found in proposed § 2.2-601 located at the beginning of this Subtitle C.

21 § ~~2.1-563.41~~. ~~Virginia Geographic Information Network Advisory Board created; membership; terms; meetings;~~
22 ~~quorum.~~

23 ~~A. The Virginia Geographic Information Network Advisory Board (the Board) is hereby created and shall advise the~~
24 ~~Division on issues related to the exercise of the Division's powers and duties.~~

25 ~~B. The Board shall consist of seventeen members appointed as follows: (i) eleven members to be appointed by the~~
26 ~~Governor, including: four state agency officials or their designees consisting of the Commonwealth Transport~~
27 ~~Commissioner, the Executive Director of the Economic Development Partnership Authority, an agency director from on~~
28 ~~the natural resources agencies, and one official from a state university; one elected official representing a local government~~
29 ~~the Commonwealth; one member of the Virginia Association of Surveyors; one elected official who serves on a planning~~
30 ~~district commission; two representatives of utilities or transportation industries utilizing geographic data; and two~~
31 ~~representatives of private businesses with expertise and experience in the establishment, operation, and maintenance of~~
32 ~~geographic information systems; and (ii) five members of the General Assembly, three of whom shall be members of the~~
33 ~~House of Delegates, to be appointed by the Speaker of the House of Delegates, and two of whom shall be members of the~~
34 ~~Senate, to be appointed by the Senate Committee on Privileges and Elections. The Director of the Department of Technology~~
35 ~~Planning shall serve as an ex officio, voting member. Any members of the Board who are representatives of private~~
36 ~~businesses that provide geographic information services, and their companies, are precluded from contracting to provide~~
37 ~~goods or services to the Division.~~

38 ~~C. The gubernatorial appointees to the Board shall serve five-year terms, except that three initial appointees shall~~
39 ~~serve three-year terms, three shall serve four-year terms, and the remainder shall serve five-year terms. Members appointed~~
40 ~~by the Governor shall serve no more than two consecutive full terms. All members of the Board appointed by the Governor~~
41 ~~shall be confirmed by each house of the General Assembly. Legislative members' terms shall be coincident with their terms of~~
42 ~~office.~~

43 ~~D. The Board shall elect from its membership a chairman, vice chairman, and any other officers deemed necessary.~~
44 ~~The duties and terms of the officers shall be prescribed by the members. A majority of the Board shall constitute a quorum.~~
45 ~~Members of the Board shall receive no compensation for their services, but the nongovernmental members shall receive~~
46 ~~actual expenses in accordance with § 2.1-20.8. The Board shall meet at least quarterly or at the call of its chairman or the~~
47 ~~Director.~~

48 **DRAFTING NOTE:** Technical corrections. This section has been moved to Part D of Subtitle I, State Authorities, Boards,
49 etc. under the heading of "Boards".

50 Article 4.

51 Division of Public Safety Communications.

52 § ~~2.1-563.35~~ 2.2-1710. Division of Public Safety Communications established; appointment of Virginia Public Safety
53 Communications Systems Coordinator; duties of Division.

1 A. There is hereby established within the Department of Technology Planning, a Division of Public Safety
2 Communications (the Division), which shall be headed by a Virginia Public Safety Communications Systems Coordinator,
3 appointed by the Director of the Department of Technology Planning (the Director) with the advice and consent of the
4 Wireless E-911 Services Board. The Division shall consist of no less than three employees, including one attorney, one
5 telecommunications engineer and one analyst, and such other personnel as the Director deems necessary. The salaries of
6 the employees of the Division shall be paid from the Wireless E-911 Fund created pursuant to § 56-484.17.

7 B. The Division shall provide staff support to the Wireless E-911 Services Board and encourage, promote and assist
8 in the development and deployment of statewide enhanced emergency telecommunications systems.

9 **DRAFTING NOTE:** Technical corrections only.

10 CHAPTER 18.

11 DEPARTMENT OF THE TREASURY.

12 Article 1.

13 General Provisions.

14 ~~§ 2.1-177~~ 2.2-1800. Department of the Treasury; State Treasurer.

15 ~~The A. There is created a Department of the Treasury is continued with the same powers, functions and duties as~~
16 ~~existed immediately prior to noon of July 1, 1971. The ("the Department"), which shall be under the direct control and~~
17 ~~supervision of the State Treasurer shall be in direct charge of the Department of the Treasury. The State Treasurer shall be~~
18 ~~appointed by the Governor, subject to confirmation by the General Assembly, for a term coincident with that of the Governor~~
19 ~~making the appointment, or until a successor is appointed and qualified to serve at his pleasure.~~

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

22 **DRAFTING NOTE:** Technical Corrections only. Subsection B was added to standardize, among the various agencies in this
23 title, language relating to the Director's exercise of powers/duties conferred by law, etc. Subsection A has been amended to
24 comply with existing § 2.1-41.2, which requires that all agency heads appointed by the Governor shall be subject to
25 confirmation by the General Assembly, shall have such professional qualifications as may be prescribed by law, and shall
26 serve at the pleasure of the Governor.

27 § 2.1-173 2.2-1801. State Treasurer to appoint administrative assistants, etc.

28 A. The State Treasurer shall appoint the administrative assistants, deputies and clerks allowed by law.

29 B. The State Treasurer shall appoint administrative assistants, who shall have authority to act for and perform the
30 duties of the State Treasurer under his direction, supervision and control, and in the absence of the State Treasurer to
31 perform all the duties of the office. Of such absence, the others shall be informed. When the absence of the State Treasurer
32 is to be for more than five days at a time, notice thereof shall be given to the Governor.

33 C. In the event the administrative assistant is incapacitated from performing his duties during the absence of the
34 State Treasurer, the Governor shall designate some other administrative assistant in the office to act during the absence of
35 the State Treasurer, and in the event of the removal, resignation or death of the State Treasurer, the administrative assistant
36 shall perform all the duties of the office until the vacancy is filled in the manner prescribed by law.

37 D. Such officers and their sureties shall be liable for any default or breach of duty of their administrative assistants
38 respectively during their absence.

39 **DRAFTING NOTE:** Technical corrections. This new section is comprised of the following existing sections: subsection A is §
40 2.1-173, subsection B is § 2.1-174, subsection C is § 2.1-175, and subsection D is § 2.1-176. Those existing sections refer
41 also to the Comptroller but have been deleted here since this proposed section deals with the State Treasurer. The same
42 authority given to the Comptroller is in a corresponding section set out in the chapter dealing with the Comptroller to ensure
43 that this authority is maintained. The terms "chief" and "clerk" have been replaced with "Treasurer" and "administrative
44 assistant."

45 § 2.1-178. Treasury Board generally.

46 ~~The State Treasurer, the Comptroller, the Tax Commissioner, and four additional members to be appointed by the~~
47 ~~Governor, subject to confirmation by the General Assembly, if in session when such appointment is made, and if not in~~
48 ~~session, at the first session subsequent to such appointment, which members shall serve at the pleasure of the Governor,~~
49 ~~shall constitute and be known as the Treasury Board. The State Treasurer shall act as the Chairman, and the Board shall~~
50 ~~elect a Secretary either from its own membership or from without. The Board shall have regularly scheduled meetings at least~~
51 ~~monthly, and shall keep a regular and sufficient set of books, wherein shall be recorded all of their proceedings and any~~
52 ~~action taken by them with respect to any funds which by any provision of law are required to be administered by the Treasury~~
53 ~~Board. Four members of the Board shall constitute a quorum. The members appointed by the Governor should have a~~

1 ~~background and experience in financial management and investments, and shall receive necessary traveling and other~~
2 ~~expenses incurred in performing official duties as members of the Board.~~

3 **DRAFTING NOTE:** Technical corrections. Sections § 2.1-178 through 2.1-179.5 relating to the Treasury Board have been
4 moved to Part D of Subtitle I, State Authorities, Boards, etc. under the heading of "Boards".

5 ~~§ 2.1-179. Powers and duties of Treasury Board.~~

6 ~~The powers and duties of the Treasury Board shall be as follows:~~

7 ~~1. To exercise general supervision over all investments of state funds;~~

8 ~~2. To give advice and supervision in the financing of state buildings and to make recommendations, as requested, to~~
9 ~~the Governor on methods by which capital outlay requirements of the Commonwealth, including its agencies and institutions,~~
10 ~~may be financed;~~

11 ~~3. To control and manage all sinking funds and other funds in possession of the Commonwealth in a fiduciary~~
12 ~~capacity;~~

13 ~~4. To administer the Virginia Security for Public Deposits Act (§ 2.1-350 et seq.);~~

14 ~~5. Notwithstanding any provisions to the contrary, to make recommendations to the Governor on proposed bond~~
15 ~~issues or other financing arrangements, to approve the terms and structure of bonds or other financing arrangements~~
16 ~~executed by or for the benefit of educational institutions and state agencies other than independent state authorities, including~~
17 ~~bonds or other financing arrangements secured by leases, lease purchase agreements, financing leases, capital leases or~~
18 ~~other similar agreements, and agreements relating to the sale of bonds;~~

19 ~~6. As to any tax exempt bonds for which it has issuing authority, either by statute or by act of the General Assembly,~~
20 ~~to take or cause to be taken and omit to take all actions, the taking or omission of which is necessary on behalf of the~~
21 ~~Commonwealth to prevent such bonds from being or becoming subject to federal income taxation or being considered to be~~
22 ~~"arbitrage bonds" within the meaning of federal tax laws, including compliance with the arbitrage rebate provisions thereof;~~

23 ~~7. Notwithstanding any provisions to the contrary, to approve the terms and structure of bonds or other financing~~
24 ~~arrangements executed by or for the benefit of state agencies, boards and authorities where debt service payments on such~~
25 ~~bonds or other financing arrangements are expected by such agency, board or authority to be made, in whole or in part,~~
26 ~~directly or indirectly, from appropriations of the Commonwealth, including bonds or other financing arrangements secured by~~
27 ~~leases, lease purchase agreements, financing leases, capital leases or other similar agreements, and agreements relating to~~
28 ~~the sale of bonds;~~

29 ~~8. To establish debt structuring guidelines for bonds or other financing arrangements executed by or for the benefit~~
30 ~~of all state agencies, institutions, boards, and authorities where the debt service payments on such bonds or other financing~~
31 ~~arrangements are expected to be made, in whole or in part, directly or indirectly, from appropriations of the Commonwealth, in~~
32 ~~which guidelines the Treasury Board may, in its sole discretion, include such items as it deems necessary and appropriate,~~
33 ~~including, but not limited to, defining terms such as "terms and structure" and "bonds and other financing arrangements" and~~
34 ~~exempting from its review and approval pursuant to subdivision 5 or 7 of this section (a) specific bond issues and other~~
35 ~~financing arrangements, (b) certain types or classes of bond issues and other financing arrangements, and (c) bond issues~~
36 ~~and other financing arrangements that are below a stated dollar amount;~~

37 ~~9. To do all acts and things necessary or convenient to efficiently carry out and enforce the powers granted to and~~
38 ~~duties imposed on it by law, including delegating to the State Treasurer or to a committee composed of not less than three~~
39 ~~members of the Treasury Board such powers and duties, as it may deem proper, to the extent designated and permitted by~~
40 ~~the Treasury Board;~~

41 ~~10. To exercise such other powers and perform such other duties as may be conferred or imposed upon it by law;~~
42 ~~and~~

43 ~~11. To do all acts and things necessary or convenient to wind down the affairs of, and protect the Commonwealth's~~
44 ~~interests in such matters that may survive the termination of the State Education Assistance Authority, the Virginia Student~~
45 ~~Assistance Authorities, and the Virginia Education Loan Authority. Nothing herein shall be construed to amend, enhance or~~
46 ~~otherwise alter such commitments, security interests, guarantees or other pledges entered into by the State Education~~
47 ~~Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority, acting in their~~
48 ~~official capacity and effective on or before March 31, 1997.~~

49 **DRAFTING NOTE:** Technical corrections. Sections § 2.1-178 through 2.1-179.5 relating to the Treasury Board have been
50 moved to Part D of Subtitle I, State Authorities, Boards, etc. under the heading of "Boards".

51 ~~§ 2.1-179.2. Approval of financial terms of certain contracts; using agencies to procure certain financial services~~
52 ~~through Treasury Board.~~

53 ~~A. The Treasury Board, or the Board's designee, shall review and approve the financial terms of all contracts for the~~
54 ~~purchase or financing of the purchase by agencies, institutions, boards and authorities which receive appropriations from the~~
55 ~~Commonwealth, i.e., the using agencies, of personal property, including personal property to be affixed to realty, whether by~~

~~lease purchase, installment purchase or otherwise, where payment of the purchase price is deferred through installment payments, includes the payment of interest, or is otherwise financed by the seller, lessor, or third parties.~~

~~B. The Board may specifically exempt from its review and approval specific purchases, and purchases below a stated amount, and may promulgate rules and regulations governing the financial terms of contracts, as described in subsection A herein, including but not limited to the authority to negotiate with a seller or lessor the public or private sale of securities, the security interest which may be granted to a seller or lessor, and the types and value of property which may be acquired under such contracts. Approval of the Board or its designee and compliance with rules and regulations issued pursuant to this section shall be required in addition to and notwithstanding any other provision of law pertaining to the review, approval or award of contracts by agencies and institutions of the Commonwealth.~~

~~C. Notwithstanding any of the foregoing and except as the Board shall direct and authorize otherwise, every using agency shall procure through the Treasury Board all contracts for the financing of the purchases described in subsection A or other financial services needed for the purpose of financing such purchases. The Board is hereby authorized to acquire such financing services, which may include but are not limited to employing financial advisers and private or public placement agents.~~

~~D. An agency, institution, board, or authority which receives appropriations from the Commonwealth shall procure state agency energy efficiency projects under this section. State agency energy efficiency projects may include personal property, the installation or modification of an installation in a building, and professional, management, and other special services which are primarily intended to reduce energy consumption and demand, or allow the use of an alternative energy source, and which may contain integral control and measurement devices.~~

DRAFTING NOTE: Technical corrections. Sections § 2.1-178 through 2.1-179.5 relating to the Treasury Board have been moved to Part D of Subtitle I, State Authorities, Boards, etc. under the heading of "Boards".

~~§ 2.1-179.3. Use of bond anticipation notes by the Treasury Board.~~

~~Whenever the General Assembly has enacted legislation pursuant to Article X, Section 9 (b), (c), or (d) of the Constitution of Virginia authorizing the issuance of bonds for capital projects of the Commonwealth or any state agency, institution, board, or authority (a "state instrumentality") where debt service payments on such bonds are expected to be made in whole or in part from appropriations of the Commonwealth, the Treasury Board, by and with the consent of the Governor, is hereby authorized to borrow money in anticipation of the issuance of such bonds to provide funds, with any other available funds, to pay the costs of acquiring, constructing, renovating, enlarging, improving, and equipping any one or more of the capital projects for which such bonds have been authorized. Any such borrowing shall be evidenced by notes of the Commonwealth which shall be in such form, shall be executed in such manner, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as the Treasury Board, or the State Treasurer when authorized by the Treasury Board, may determine. Such notes may bear interest at a rate or rates subject to inclusion in gross income for federal income tax purposes as may be determined by the Treasury Board, by and with the consent of the Governor. Such notes may be made payable from the proceeds of the bonds, other notes, or other sources of funds authorized by the General Assembly. The proceeds of the notes, to the extent not required to pay the principal or interest on maturing notes, or expenses associated therewith, shall be paid or otherwise made available to the Commonwealth or appropriate state instrumentality to pay the costs of such capital projects; however, the undertaking and obligation of (i) the Treasury Board to make such note proceeds available to the state instrumentality and (ii) the state instrumentality to pay or provide for the payment of the interest and principal coming due on the notes and to issue its own bonds or otherwise retire the notes within five years of the date of their initial issuance shall be set forth in a written agreement between the Treasury Board and the state instrumentality. No such notes shall be issued by the Treasury Board for or on behalf of a state instrumentality unless the Treasury Board shall have first determined that such written agreement provides reasonable assurance of the full and timely payment of the debt service on the notes.~~

~~No law authorizing the issuance of bonds and notes for which bond anticipation notes have been issued by the Treasury Board shall be repealed or otherwise vitiated without first providing for the payment of the related bond anticipation notes of the Treasury Board.~~

DRAFTING NOTE: Technical corrections. Sections § 2.1-178 through 2.1-179.5 relating to the Treasury Board have been moved to Part D of Subtitle I, State Authorities, Boards, etc. under the heading of "Boards".

~~§ 2.1-179.4. Issuance of refunding bonds by the Treasury Board.~~

~~The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, from time to time, refunding bonds of the Commonwealth to refund any or all of the Commonwealth's bonds or other debt. The aggregate principal amount of such refunding bonds shall not exceed the amount required to redeem or otherwise provide for the payment of the unpaid principal of and interest on and any redemption premium payable on the bonds to be refunded to their date of redemption or payment, plus all expenses incurred in such refunding transaction.~~

DRAFTING NOTE: Technical corrections. Sections § 2.1-178 through 2.1-179.5 relating to the Treasury Board have been moved to Part D of Subtitle I, State Authorities, Boards, etc. under the heading of "Boards".

1 ~~§ 2.1-179.5. Combined issuance of general obligation debt by the Treasury Board.~~

2 ~~Bonds and notes issued by the Treasury Board may be issued and sold at the same time with other bonds and~~
3 ~~issued by the Treasury Board either as separate issues, a combined issue, or a combination of both.~~

4 **DRAFTING NOTE:** Technical corrections. Sections § 2.1-178 through 2.1-179.5 relating to the Treasury Board have been
5 moved to Part D of Subtitle I, State Authorities, Boards, etc. under the heading of "Boards".

6 ~~§ 2.1-180 2.2-1802. (Effective October 1, 1998)~~ Payment of state funds into state treasury; deposits in state
7 depositories; credit of fund not paid into general fund; exceptions as to endowments and gifts to institutions; appropriations by
8 federal government.

9 Every state department, division, officer, board, commission, institution or other agency owned or controlled by the
10 Commonwealth, whether at the seat of government or not, collecting or receiving public funds, or moneys from any source,
11 belonging to or for the use of the Commonwealth, or for the use of any state agency, shall hereafter pay the same promptly
12 into the state treasury, ~~without any deductions on account of salaries, fees, costs, charges, expenses, refunds, or claims.~~ All
13 fees of office and commissions accruing to the State Treasurer shall be paid into the state treasury.

14 Any state department, division, officer, board, commission, institution or other agency at the seat of government shall
15 deposit such moneys to the credit of the State Treasurer upon communicating with him and receiving instructions from him as
16 to what state depository may be used for the purpose. In every such case the depositor shall retain a deposit receipt or a
17 ~~certificate of the deposit~~ certificate form certified by the bank receiving the deposit for every such deposit to the State
18 Treasurer and send to the Comptroller a copy of the deposit receipt, certificate, or other documentation supporting the
19 deposit, as prescribed by the Comptroller.

20 Any state department, division, officer, board, commission, institution or other agency not at the seat of government,
21 other than county and city treasurers and clerks of courts, depositing such moneys to its or his credit in local banks shall
22 deposit such moneys to the credit of the State Treasurer in a state depository duly designated in ~~puruance of accordance~~
23 ~~with this chapter as such,~~ and in every such case ~~such~~ the depositor shall retain a deposit receipt or a ~~certificate of the~~
24 ~~deposit~~ certificate form certified by the bank receiving the deposit for every ~~such~~ deposit to the State Treasurer and send to
25 the Comptroller a copy of the deposit receipt, certificate, or other documentation supporting the deposit, as prescribed by the
26 Comptroller. Moneys deposited into such state depositories shall be transferred to a concentration bank as prescribed by the
27 State Treasurer.

28 Moneys paid into the state treasury ~~which that~~ are not now payable into the general fund of the state treasury shall
29 be placed to the credit of the respective accounts ~~which that~~ are required by law to be kept on the books of the Comptr
30 to the credit of new accounts to be opened on the books of the Comptroller with such agencies so paying such money
31 the state treasury, respectively.

32 This chapter shall not apply to the endowment funds or gifts to institutions owned or controlled by the
33 Commonwealth, or to the income from such endowment funds or gifts, or to private funds belonging to the students or
34 inmates of state institutions. The cash as well as the notes of student loan funds shall be held by the respective institutions.

35 Appropriations made by the government of the United States to or for the benefit of any state institution or agency,
36 however, shall be paid into the state treasury and used for the purposes for which such appropriations were made.

37 **DRAFTING NOTE:** Technical corrections only. In the first paragraph, language deleted on the recommendation of the
38 Comptroller to clarify the common business practice of netting collection fees is allowed. The term "certificate of deposit" has
39 been changed to "deposit certificate form" on the recommendation of the Department of the Treasury because the latter term
40 refers to the actual proof of the transaction.

41 ~~§ 2.1-180.1 2.2-1803.~~ State Treasurer; regulation procedures for depositing money.

42 The State Treasurer may ~~promulgate~~ adopt regulations or other directives establishing procedures for depositing
43 moneys in depository banks and for reporting ~~such the~~ deposits. ~~Such The~~ regulations may address, by way of explanation
44 and not limitation: (i) the form of the required reports; (ii) the frequency of reports and deposits; (iii) the disposition of checks;
45 and (iv) the establishment of banking relationships. All agencies and entities depositing moneys to the credit of the Treasurer
46 of Virginia, including judicial and legislative service agencies, clerks of court, local treasurers or other officials performing
47 similar duties, and political subdivisions, shall comply with the State Treasurer's regulations or other directives.

48 **DRAFTING NOTE:** Technical corrections only.

49 ~~§ 2.1-182 2.2-1804.~~ Payment by delivery of checks, etc., to State Treasurer; liability when not paid on presentation.

50 Any public officer, or any firm or corporation, or any other person having to pay money into the treasury may make
51 ~~such~~ payment by delivering to the State Treasurer a check, draft or ~~certificate of deposit~~ certificate form, drawn or endorsed,
52 payable to the State Treasurer, or his order, or may make ~~such~~ payment by delivering to the State Treasurer the proper
53 amount of lawful money. Should any check, ~~or draft, or certificate of deposit~~ not be paid on presentation, the amount thereof,
54 with all costs, shall be charged to the person on whose account it was received, and his liability and that of his sureties,
55 except the additional liability for costs, shall be as if he had never offered any such check, draft, or certificate of deposit.

1 **DRAFTING NOTE:** Technical corrections only.

2 ~~§ 2.1-183~~ 2.2-1805. Records of receipts of such checks, etc.; reports to Comptroller.

3 A. The State Treasurer shall keep a record of every such check, draft, or certificate of deposit electronic transfer of
4 funds, and of all such moneys received by him, and upon receipt thereof, forthwith shall cause the same to be placed to the
5 credit of the Commonwealth with some state depository. If any check, or draft, or certificate of deposit is not be paid on
6 presentation, the State Treasurer shall immediately notify the Comptroller, who shall proceed to collect the amount thereof
7 from the person from whom the same was received by the Treasurer. The State Treasurer shall daily transmit to the
8 Comptroller a detailed record of all receipts, giving the details thereof.

9 B. The State Treasurer shall not collect any money on a check or draft; but the same shall, in every case, be
10 properly endorsed as required by him and deposited with some state depository for the credit of the Commonwealth.

11 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
12 A is § 2.1-183 and subsection B is § 2.1-184.

13 ~~§ 2.1-184. State Treasurer to deposit such checks, etc.~~

14 ~~The State Treasurer shall not collect any money on such check, draft, or certificate of deposit; but the same shall, in~~
15 ~~every case, be by him properly endorsed and deposited, as aforesaid, with some state depository for the credit of the~~
16 ~~Commonwealth.~~

17 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-1805.

18 ~~§ 2.1-185~~ 2.2-1806. Investment of current funds in state treasury; withdrawals and transfers of moneys to be
19 invested.

20 The Governor and State Treasurer, acting jointly ~~are authorized and empowered, may~~ whenever in their opinion
21 there are funds in the state treasury in excess of the amount required to meet the current needs and demands of the
22 Commonwealth, ~~to invest such the~~ excess funds in securities that are legal investments under the laws of the Commonwealth
23 for public funds. The funds shall be invested in such of said securities as, in their judgment, will be readily convertible into
24 money. Notwithstanding the provisions of ~~§ 2.1-226~~ 2.2-1821 or any other provision relating to the withdrawal of state moneys
25 in a ~~State Depository~~ state depository, withdrawals and transfers of state moneys to be so invested may be made by ~~State~~
26 ~~Depositories~~ state depositories pursuant to oral (including telephonic) or electronic instructions of the State Treasurer or his
27 duly authorized deputies. Written confirmations of ~~such the~~ withdrawals and transfers shall be provided by the ~~State~~
28 ~~Depository~~ state depository no later than the close of business on the day following the withdrawal and transfer. Payment of
29 state moneys pursuant to this procedure shall be valid against the Commonwealth.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2.1-186~~ 2.2-1807. Investments, etc., in custody of State Treasurer.

32 The State Treasurer shall be charged with the custody of all investments and invested funds of the Commonwealth
33 or in possession of the Commonwealth in a fiduciary capacity, and ~~with the keeping of~~ shall keep the accounts of such
34 investments. The State Treasurer shall also be charged with the custody of all bonds and certificates of the state debts,
35 whether unissued or canceled, and with the receipt and delivery of state bonds and certificates for transfer, registration or
36 exchange.

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 2.1-187~~ 2.2-1808. State Treasurer may sell securities in general fund; exceptions; disposition of proceeds.

39 The Treasurer ~~is authorized, when in his discretion he deems proper, to may~~ sell, transfer, and convey any notes,
40 bonds, obligations or certificates of stock held in the general fund of the state treasury. The proceeds from any such sale or
41 disposition shall immediately be paid into the general fund. This section shall apply to any ~~such present or future~~ present or future holdings ~~and~~
42 ~~to those hereafter acquired.~~

43 **DRAFTING NOTE:** Technical corrections only.

44 ~~§ 2.1-188~~ 2.2-1809. Warrants on state treasury to be listed and numbered.

45 The State Treasurer shall keep a list of all warrants drawn upon the state treasury, numbered consecutively.

46 No information contained in the list of warrants shall be released for any purpose except as a means of establishing
47 the status of a claim previously reported as having been paid when a person legally entitled to the funds presents evidence
48 that a previously submitted claim has not been paid.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§ 2.1-189~~ 2.2-1810. State Treasurer to keep accounts with depositories.

1 The State Treasurer shall keep accounts on the books of his office with the different depositories, on which accounts
2 balances shall be struck monthly, showing the amount in bank to the credit of the State Treasurer at the end of each month.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 2-1-190.1~~ 2.2-1811. Unpresented checks drawn by State Treasurer; ~~reissue-replacement~~ and payment.

5 The State Treasurer shall report and remit, pursuant to the provisions of §§ 55-210.9, 55-210.12 and 55-210.14, all
6 checks drawn by him on state depositories ~~which that~~ have not been presented for payment within one year from the date of
7 issuance.

8 **DRAFTING NOTE:** Technical corrections only.

9 ~~§ 2-1-190.1~~ 2.2-1812. Admissibility of reproductions of checks in evidence; compliance with subpoena.

10 A. A reproduction of any check or draft or an enlargement of such reproduction drawn by the State Treasurer, of
11 Virginia, when satisfactorily identified, ~~is shall be as~~ admissible in evidence as the original itself in any judicial or
12 administrative proceeding, ~~civil or criminal~~, whether the original is in existence ~~or not and a satisfactorily identified~~
13 ~~enlargement of such reproduction is likewise admissible~~. The introduction of a reproduced check or draft or of an enlargement
14 thereof ~~does shall~~ not preclude admission of the original. Any such check or draft, reproduction or enlargement purporting to
15 be sealed, sealed and signed, or signed alone by the State Treasurer or on his behalf ~~by an employee of the Commonwealth~~
16 ~~of Virginia designated by the State Treasurer~~ his designee, may be considered satisfactorily identified and admitted as
17 evidence, without any proof of the seal or signature, or of the official character of the person whose name is signed to it.

18 B. The State Treasurer ~~or an employee of the Commonwealth of Virginia designated by the State Treasurer~~ his
19 designee, when served with any summons, subpoena, subpoena duces tecum or order, directing him to produce any check
20 or draft kept by or in the possession of any agency or institution of the Commonwealth, may comply ~~therewith~~ by certifying a
21 reproduction or enlargement ~~thereof~~ in accordance with ~~the preceding subsection~~ subsection A and mailing ~~such the~~
22 reproduction or enlargement in a sealed envelope to the clerk of court. Upon good cause shown, any court may direct the
23 Treasurer or ~~an employee of the Commonwealth of Virginia designated by the State Treasurer~~ his designee to appear
24 personally, notwithstanding any other provision of this section.

25 **DRAFTING NOTE:** Technical corrections only.

26 Article 2.

27 State Depositories.

28 ~~§ 2-1-209~~ 2.2-1813. Deposits in banks and savings institutions designated as state depositories.

29 Moneys to be ~~hereafter~~ paid into the state treasury shall be deposited in ~~such the~~ banks and savings institutions ~~as~~
30 ~~shall be~~ designated as state depositories by the State Treasurer.

31 **DRAFTING NOTE:** Technical corrections only.

32 ~~§ 2-1-210~~ 2.2-1814. Amount and time limit of deposits.

33 The State Treasurer may arrange for and make state deposits in such amounts and for such time as in his judgment
34 the condition of the state treasury permits; however, no state deposit shall be made for a period in excess of five years. The
35 money deposited in a bank or savings institution in excess of the amount insured by the Federal Deposit Insurance
36 Corporation or other federal insurance agency shall be fully collateralized by eligible collateral as defined in ~~§ 2-1-360 (e)~~ 2.2-
37 4401.

38 **DRAFTING NOTE:** Technical corrections only.

39 ~~§ 2-1-211~~ 2.2-1815. Security to be given by depositories holding state funds.

40 No state funds shall be deposited in any depository unless it is a "qualified public depository" as defined in ~~§ 2-1-~~
41 ~~360(b)~~ 2.2-4401. For purposes of this article, "state funds" means public funds or moneys from any source, belonging to or for
42 the use of the Commonwealth, or for the use of any state department, division, officer, board, commission, institution, or other
43 agency or authority owned or controlled by the Commonwealth. All state funds shall be secured pursuant to the Virginia
44 Security for Public Deposits Act (~~§ 2-1-360 et seq.~~ 2.2-4400).

45 **DRAFTING NOTE:** Technical corrections only.

46 ~~§ 2-1-210~~ 2.2-1816. How public moneys transferred to depositories.

47 All transfers of public moneys from one depository to another for any purpose shall be made ~~upon drafts drawn by by~~
48 electronic funds transfer at the direction of the State Treasurer or his duly authorized deputies, ~~and made payable to the~~
49 ~~depository to which the money is to be transferred for deposit to the credit of the State Treasurer, or shall be made by wire~~

transfer, at the direction of the State Treasurer or his duly authorized deputies, which who shall order the transferor bank to make payment to the transferee bank for deposit to the credit of the State Treasurer.

DRAFTING NOTE: Technical corrections. This section has been amended as recommended by the Department of the Treasury because all transfers between depository accounts are made by electronic means, either through wire transfer or an automated clearing house transfer. As a result, a wire generic term "electronic funds transfer" is used in this section to describe the electronic mechanisms currently in use. Written drafts are no longer used.

~~§ 2-1-220 2.2-1817.~~ Commonwealth shall not be liable for loss in collection of checks, etc.

The Commonwealth shall not be liable for any loss resulting from lack of diligence on the part of any depository in forwarding, or in failing to collect, any ~~such~~ check, draft, or ~~certificate of deposit~~ electronic transfer of funds as is referred to in ~~§ 2-1-182 2.2-1804,~~ or for the loss of any ~~such~~ check, draft, or ~~certificate of deposit~~ electronic transfer of funds in transmission through the mails or otherwise.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-223 2.2-1818.~~ Responsibility of Commonwealth for securities deposited with Commonwealth Transportation Board.

The Commonwealth shall be responsible for the safekeeping of all bonds or other securities deposited with the Commonwealth Transportation Commissioner or the Commonwealth Transportation Board as surety on account of funds deposited in banks by division engineers of the Department of Transportation, ~~going into their custody under the provisions of § 2-1-230, and, if~~ such bonds or securities or any of them ~~shall be~~ are lost, destroyed or misappropriated, the Commonwealth shall make good such loss to the bank making ~~such the~~ deposit of its bonds or other securities.

Upon the closing of accounts of district engineers with banks, its bonds and other securities then on deposit shall be returned to ~~such banks~~ the bank.

DRAFTING NOTE: Technical corrections. References to § 2.1-230 have been deleted since that section was repealed by Chapter 215 of the 1979 Acts of Assembly.

Article 3.

Disbursement From State Treasury.

~~§ 2-1-224 2.2-1819.~~ Payments to be ~~in pursuance of~~ made in accordance with appropriations; submission and approval of quarterly estimates.

No money shall be paid out of the state treasury except in ~~pursuance of~~ accordance with appropriations made by law.

No appropriation to any department, institution or other agency of the state government, except the General Assembly and the judiciary, shall become available for expenditure until the agency ~~shall submit~~ submits an annual estimate of the amounts required for each activity to the Director of the Department of Planning and Budget ~~annual estimates of the amount required for each activity to be carried on, and such estimates shall have been approved by the~~ and Governor for approval by the Governor.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-225. Filing of statements by certain recipients of state funds; what statements must show.~~

~~All persons, firms, corporations, associations, groups, and organizations of whatsoever nature to which appropriations are made in the act appropriating the public revenue by specific designation, except associations and organizations receiving funds under §§ 10.1-812, 10.1-813 and 10.1-814, shall annually file with the Comptroller a certified statement showing in detail the receipts and expenditures thereof. Such statement shall show the compensation, either by salary, bonus, or otherwise paid out to and paid any officer or employee who receives in excess of \$1,000 per year. It shall be unlawful for the Comptroller of this Commonwealth to pay any appropriation to any such of the foregoing unless such statement has been filed by the association or organization to which this section and the appropriation are applicable.~~

~~The provisions of this section shall not apply to any state agency, officer or employee.~~

DRAFTING NOTE: This section has been deleted as obsolete on the recommendation of the Comptroller. Distribution of nonstate agency funds was transferred to the Department of Historic Resources in 2000, Chapter 1073, Item 571.

§ 2.2-1820. Reserved.

~~§ 2-1-226 2.2-1821.~~ Deposits to be to credit of State Treasurer; how money withdrawn.

All state moneys in a state depository shall stand on the books of such depository to the credit of the State Treasurer. The State Treasurer shall have authority to draw any of the money by his check, by an ~~electronic fund wire or payment system~~ funds transfer, or by any means deemed appropriate and sound by the State Treasurer and approved by the

1 Governor, drawn upon a warrant issued by the Comptroller. If any money to his credit, ~~as aforesaid,~~ shall be knowingly paid
2 otherwise than upon his check, electronic fund wire or payment system funds transfer or by alternative means specific;
3 approved by the State Treasurer and the Governor, drawn upon such warrant, the payment shall not be valid against t.
4 Commonwealth.

5 **DRAFTING NOTE:** Technical corrections only.

6 ~~§-2-1-227~~ 2.2-1822. Conditions to issuance of disbursement warrants.

7 The Comptroller shall not issue a disbursement warrant unless and until he ~~shall have~~ has audited, through the use
8 of statistical sampling or other acceptable auditing techniques the bill, invoice, account, payroll or other evidence of the claim,
9 demand or charge and satisfied himself as to the regularity, legality and correctness of the expenditure or disbursement, and
10 that the claim, demand or charge has not been previously paid. If he ~~be is~~ so satisfied, he shall approve the same; otherwise,
11 he shall withhold his approval. In order that such regularity and legality may appear, the Comptroller may, by general rule or
12 special order, require ~~each the~~ certification or ~~each other~~ evidence as the circumstances may demand.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§-2-1-228~~ 2.2-1823. Lump-sum transfers prohibited.

15 ~~Except as hereinafter provided, lump sum~~ Lump-sum transfers of appropriations to state departments, divisions,
16 offices, boards, commissions, institutions and other agencies owned or controlled by the Commonwealth, whether at the seat
17 of government or not, ~~are shall be prohibited except for~~ But nothing in this section shall be construed as preventing the
18 payment to or distribution among the political subdivisions of the Commonwealth of any appropriations made to them by law.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§-2-1-229~~ 2.2-1824. Petty cash, payroll and other funds.

21 A reasonable petty cash, payroll or other imprest fund may be allowed each state department, institution, board,
22 commission or other agency. The amount of such fund ~~or funds~~ shall be fixed by the Comptroller in each case, but these
23 funds shall be reimbursed only upon vouchers audited by the Comptroller.

24 **DRAFTING NOTE:** Technical corrections only.

25 ~~§-2-1-234~~ 2.2-1825. Issuance of warrants for payment of claims; Comptroller to keep and sign register of warra
26 issued; signing of checks drawn on such warrants; electronic payment systems.

27 After the allowance of any claim ~~which that~~ is payable out of the state treasury, under any of the provisions of this
28 title, a warrant shall be issued for the sum to be paid. A register of all warrants so issued shall be kept by the Comptroller,
29 which register and a duplicate register ~~for the State Treasurer~~ shall, from time to time, be signed by the Comptroller or by
30 such deputy ~~or deputies~~ as he may designate for that purpose. The Comptroller shall not be required to sign ~~such the~~
31 warrants.

32 All checks drawn upon ~~such~~ warrants as shown by ~~such the~~ register and duplicate register, signed by the
33 Comptroller or his deputy, shall be signed by the State Treasurer, or by such deputy ~~or deputies~~ as he may designate for that
34 purpose. ~~Such The~~ signature may be made by means of a mechanical or electrical device selected by the State Treasurer.
35 ~~Such The~~ device shall be safely kept so that no one ~~shall will~~ have access ~~thereto to it~~ except the State Treasurer and his
36 deputies authorized to sign warrants ~~as herein provided~~.

37 However, when deemed appropriate, the State Treasurer may utilize various electronic payment systems in lieu of
38 issuing checks drawn upon warrants.

39 **DRAFTING NOTE:** Technical corrections only. Stricken language in first paragraph on recommendation of Comptroller to
40 conform with current practice. The Department of the Treasury prints one copy of the warrant register, which is reviewed by
41 Department of the Treasury and Department of Accounts and archived at Department of Accounts.

42 ~~§-2-1-232~~ 2.2-1826. Issuance of ~~duplicate replacement~~ warrants generally.

43 Upon satisfactory proof ~~being~~ presented to the Comptroller or to the State Treasurer that any warrant drawn by
44 either the Comptroller or the State Treasurer, or by a predecessor, upon the state treasury has been lost or destroyed before
45 having been paid, the Comptroller or State Treasurer who issued, or from whose office was issued, the original warrant shall
46 issue a ~~duplicate therefor~~ replacement of the original warrant. The Comptroller or the State Treasurer may require a bond to
47 be executed, with such security as is approved by him, payable to the Commonwealth, in the ~~penalty of the~~ amount of the
48 warrant and conditioned to save harmless the Commonwealth from any loss occasioned by ~~the issuing of the duplicate~~
49 replacement warrant. Every ~~duplicate replacement~~ warrant shall show upon its face that it is a ~~duplicate replacement~~.

50 In the discretion of the State Treasurer, state warrants in payment and redemption of previously lost or otherwise
51 unpaid warrants may be issued directly to the person ~~or persons~~ entitled to the money as the owner, heir, legatee, or as
52 fiduciary of the estate of the deceased owner, heir, or legatee, and in such cases shall not be issued to a named attorney

1 fact, agent, assignee, or any other person regardless of a written instruction to the contrary. In such circumstances, the State
2 Treasurer may refuse to recognize and is not bound by any terms of a power of attorney or assignment that may be
3 presented as having been executed by a person as the purported owner, heir, legatee or fiduciary of the estate of a deceased
4 owner of such warrants.

5 **DRAFTING NOTE:** Technical corrections. The Department of the Treasury recommends substituting "duplicate" with
6 "replacement" warrant because in current practice duplicate warrants are not issued. The replacement warrant is not a
7 duplicate since its date and check number are different.

8 ~~§ 2-1-233~~ 2.2-1827. When ~~duplicate-replacement~~ warrant issued without bond.

9 ~~If the~~ No bond shall be required where an original warrant was issued: (1) to (i) any eleemosynary or educational
10 institution of the Commonwealth for money appropriated to the institution, (2) to (ii) the treasurer of any county or city in the
11 Commonwealth for money apportioned to it out of the school fund and to be disbursed by the treasurer in payment of school
12 warrants, or to be issued to any district school board of any county for money to be disbursed by the board in payment and
13 settlement of any claims lawfully contracted in the operation of the public schools in the district, or in the construction of
14 graded school buildings, or (3) to (iii) the treasurer of any county or city in the Commonwealth for money apportioned to it
15 from the gas tax, and such warrant has been lost or destroyed without having been paid, the ~~The~~ Comptroller or the State
16 Treasurer who issued the original warrant, or from whose office the same it was issued, or if issued by his predecessor, shall
17 issue a duplicate-replacement warrant therefor, showing upon the replacement warrant shall show on its face that it is a
18 duplicate-replacement, and shall be issued within thirty days from the date of issuing the original warrant, upon satisfactory
19 proof of the loss or destruction of the original warrant, and in any such case no indemnifying bond shall be required.

20 **DRAFTING NOTE:** Technical corrections only.

21 Article 4.

22 Revenue Stabilization Fund.

23 ~~§ 2-1-101.1~~ 2.2-1828. Creation of Revenue Stabilization Fund.

24 There is ~~hereby~~ established a fund to be known as the Revenue Stabilization Fund (the "Fund") for the stabilization
25 of the expected revenues of the Commonwealth. The Fund shall be available to offset, in part, anticipated shortfalls in
26 revenues when appropriations based on previous forecasts exceed expected revenues in subsequent forecasts.

27 **DRAFTING NOTE:** Technical corrections only.

28 ~~§ 2-1-101.2~~ 2.2-1829. Reports of Auditor of Public Accounts; Fund deposits and withdrawals.

29 A. On or before December 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the
30 certified tax revenues collected in the most recently ended fiscal year. The Auditor shall, at the same time, (i) provide his
31 report on the ten percent limitation and the amount ~~which that~~ could be paid into the Fund. ~~The Auditor shall, at the same~~
32 ~~time, also report and (ii)~~ the amount necessary for deposit for the next fiscal year into the Fund in order to satisfy the
33 mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia. The Governor shall include any such
34 amount in his budget bill submitted to the General Assembly pursuant to ~~§ 2-1-390~~ 2.2-1509. A schedule of deposits may be
35 provided for in the Appropriation Act.

36 B. The State Comptroller shall draw such warrants as appropriated and the ~~State Treasurer of Virginia~~ shall deposit
37 such warrants into the Fund. No amounts shall be withdrawn from the Fund ~~except pursuant to in pursuance of~~
38 appropriations made by the General Assembly in accordance with ~~§ 2-1-101.3~~ 2.2-1830. However, if any amounts accrue,
39 such as through interest or dividends, to the credit of the Fund in excess of the ten percent limitation calculated by the Auditor
40 of Public Accounts, any ~~such~~ excess shall be paid into the general fund pursuant to Article X, Section 8 of the Constitution of
41 Virginia.

42 C. For the purposes of the Comptroller's preliminary and final annual reports as required by ~~§ 2-1-207~~ 2.2-1813, all
43 balances remaining in the Fund on June 30 of each fiscal year shall be considered to be a portion of the fund balance of the
44 general fund of the state treasury.

45 **DRAFTING NOTE:** Technical corrections only.

46 ~~§ 2-1-101.3~~ 2.2-1830. Decline in forecasted revenues.

47 In the event that a revised general fund forecast presented to the General Assembly reflects a decline when
48 compared to total general fund revenues appropriated, and ~~in the further event such the~~ decrease is more than two percent of
49 certified tax revenues collected in the most recently ended fiscal year, the General Assembly may appropriate an amount for
50 transfer from the Fund to the general fund to stabilize the revenues of the Commonwealth; ~~however,~~ However, in no event
51 shall the transfer exceed more than one-half of the forecasted shortfall in revenues.

52 **DRAFTING NOTE:** Technical corrections only.

1 | ~~§ 2.1-104.4 2.2-1831. Sources or components of "general fund revenues."~~

2 | Any revised general fund revenue forecast presented to the General Assembly for purposes of this article shall
3 | consist of the same revenue sources or components as those on which the total general fund revenues appropriated are
4 | based.

5 | **DRAFTING NOTE:** Technical corrections only.

6 | ~~§ 2.1-234.1. Short title.~~

7 | ~~This article may be cited as the "Investment of Public Funds and Local Government Investment Pool Act."~~

8 | **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II,
9 | Part B, Transaction of Public Business.

10 | ~~§ 2.1-234.2. Findings and purpose.~~

11 | ~~A. The General Assembly finds that the public interest is served by maximum and prudent investment of public funds~~
12 | ~~so that the need for taxes and other public revenues is decreased commensurately with the earnings on such investments. In~~
13 | ~~selecting among avenues of investment, the highest rate of return, consistent with safety and liquidity, shall be the objective.~~

14 | ~~B. The purpose of this article is to secure the maximum public benefit from the deposit and investment of public~~
15 | ~~funds, and, in furtherance of such purposes:~~

16 | ~~1. To establish and maintain a continuing statewide policy for the deposit and investment of public funds;~~

17 | ~~2. To establish a state administered pool for the investment of local government funds; and~~

18 | ~~3. To authorize treasurers or any other person collecting, disbursing, or otherwise handling public funds to invest~~
19 | ~~such public funds either under the state policy or through the local government investment pool created by the article.~~

20 | ~~C. The General Assembly finds that the objectives of this article will best be obtained through improved money~~
21 | ~~management, emphasizing the primary requirements of safety and liquidity and recognizing the different investment~~
22 | ~~objectives of operating and permanent funds.~~

23 | **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
24 | B, Transaction of Public Business.

25 | ~~§ 2.1-234.3. Definitions.~~

26 | ~~As used in this article.~~

27 | ~~1. "Local official handling public funds" or "official" means any person or entity described in the opening paragraph of~~
28 | ~~§ 2.1-327.~~

29 | ~~2. "Depository institution" means any commercial bank or trust company, savings institution, (or building and local~~
30 | ~~association) insured by an agency or instrumentality of the United States government.~~

31 | **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
32 | B, Transaction of Public Business.

33 | ~~§ 2.1-234.4. Investment authority.~~

34 | ~~Subject to the procedures set forth in this article, any local official handling public funds may invest and reinvest any~~
35 | ~~money subject to his control and jurisdiction in the local government investment pool established by § 2.1-234.8.~~

36 | **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
37 | B, Transaction of Public Business.

38 | ~~§ 2.1-234.5. Collateral conditions.~~

39 | ~~Local officials handling public funds in this Commonwealth may not require from a depository institution any pledge~~
40 | ~~of collateral for such official's deposits in such institution which is in excess of the requirements of the Virginia Security for~~
41 | ~~Public Deposits Act (§ 2.1-359 et seq.)~~

42 | **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
43 | B, Transaction of Public Business.

44 | ~~§ 2.1-234.6. Interfund pooling for investment purposes.~~

45 | ~~Local officials handling public funds are hereby authorized and encouraged to effect temporary transfers among~~
46 | ~~separate funds for the purpose of pooling amounts available for investment; this pooling may be accomplished through~~
47 | ~~interfund advances and other appropriate means consistent with recognized principles of governmental accounting provided~~
48 | ~~that:~~

49 | ~~1. Moneys are available for the investment period required;~~

- 2. The investment fund can repay the advance by the time needed;
- 3. The transactions are fully and promptly recorded; and
- 4. The interest earned is credited to the loaning or advancing jurisdiction.

DRAFTING NOTE: This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part B, Transaction of Public Business.

~~§ 2.1-234.7. Powers of Treasury Board.~~

~~A. The Treasury Board shall have power:~~

~~1. To make and promulgate regulations necessary and proper for the efficient administration of the local government investment pool hereinafter created, including but not limited to:~~

- ~~a. Specification of minimum amounts which may be deposited in the pool and minimum periods of time for which deposits shall be retained in the pool;~~
- ~~b. Creation of a reserve for losses;~~
- ~~c. Payment of administrative expenses from the earnings of the pool;~~
- ~~d. Distribution of the earnings in excess of such expenses, or allocation of losses, to the several participants in a manner which equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in the custody of the pool; and~~
- ~~e. Procedures for the deposit and withdrawal of funds.~~

~~2. To develop guidelines for the protection of the pool in the event of default in the payment of principal or interest or other income of any investment of the investment pool, such guidelines to include the following procedures:~~

- ~~a. Instituting the proper proceedings to collect the matured principal or interest or other income;~~
- ~~b. Accepting for exchange purposes refunding bonds or other evidences of indebtedness at appropriate interest rates;~~
- ~~c. Making compromises, adjustments, or disposition of matured principal or interest or other income as considered advisable for the purpose of protecting the moneys invested;~~
- ~~d. Making compromises or adjustments as to future payments of principal or interest or other income considered advisable for the purpose of protecting the moneys invested.~~

~~3. To formulate policies for the investment and reinvestment of funds in the investment pool and the acquisition, retention, management, and disposition of investments of the investment pool.~~

~~B. The Treasury Board may delegate the administrative aspects of operating under this article to the State Treasurer, subject to the regulations and guidelines promulgated by the Board.~~

~~C. Such regulations and guidelines may be promulgated without complying with the Administrative Process Act (§ 0-6:14:1 et seq.) provided that input is solicited from local officials handling public funds. Such input requires only that notice and an opportunity to submit written comments be given.~~

~~D. The Treasury Board may determine when the first deposits into the investment pool will be accepted, considering the physical capability of the office of the State Treasurer to administer such pool.~~

DRAFTING NOTE: This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part B, Transaction of Public Business.

~~§ 2.1-234.8. Local government investment pool.~~

~~A. A local government investment pool is hereby created, consisting of the aggregate of all funds from local officials handling public funds that are placed in the custody of the State Treasurer for investment and reinvestment as provided herein.~~

~~B. The Treasury Board or its delegate shall administer the local government investment pool on behalf of the participating local officials subject to regulations and guidelines promulgated by the Treasury Board.~~

~~C. The Treasury Board or its delegate shall invest moneys in the local government investment pool with the degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. Specifically, the types of authorized investments for pool assets shall be limited to those set forth for local officials in Chapter 18 (§ 2.1-327 et seq.) of this title.~~

~~D. A separate account for each participant in the fund shall be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report showing the changes in investments made during the preceding month shall be furnished to each participant having a beneficial interest in the investment pool. Details of any investment transaction shall be furnished to any participant upon request.~~

1 ~~E. The Treasury Board or its delegate shall administer and handle such accounts in the same manner as bond~~
2 ~~sinking fund trust accounts.~~

3 ~~F. The principal and accrued income, and any part thereof, of each and every account maintained for a participant, ...~~
4 ~~the local government investment pool shall be subject to payment at any time from the pool upon request, subject to~~
5 ~~applicable regulations and guidelines. Accumulated income shall be remitted or credited to each participant at least quarterly.~~

6 ~~G. Except as provided in this section, all instruments of title of all investments of the investment pool shall remain in~~
7 ~~the custody of the State Treasurer. The State Treasurer may deposit with one or more fiscal agents or banks, those~~
8 ~~instruments of title he considers advisable, to be held in safekeeping by the agents or banks for collection of the principal and~~
9 ~~interest or other income, or of the proceeds of sale. The State Treasurer shall collect the principal and interest or other~~
10 ~~income from investments of the investment pool, the instruments of title to which are in his custody, when due and payable.~~

11 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
12 B, Transaction of Public Business.

13 ~~§ 2.1-234.0. Article controlling over inconsistent laws; powers supplemental.~~

14 ~~Insofar as the provisions of this article are inconsistent with the provisions of any other law, the provisions of this~~
15 ~~article shall be controlling and the powers conferred by this article shall be in addition and supplemental to the powers~~
16 ~~conferred by any other law.~~

17 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
18 B, Transaction of Public Business.

19 ~~§ 2.1-234.0:1. Authorization to Treasury Board to provide certain assistance.~~

20 ~~A. This article shall be known, and may be cited, as the "Government Non-Arbitrage Investment Act."~~

21 ~~B. Certain provisions of the federal Tax Reform Act of 1986 have imposed on the Commonwealth, on counties, cities~~
22 ~~and towns of the Commonwealth, and on their agencies, institutions, and authorities that borrow money the onus of~~
23 ~~computing an artificial yield on certain investments associated with such borrowing and of rebating to the federal government~~
24 ~~investment earnings in excess of such yield. The administrative and legal requirements of compliance with such provisions~~
25 ~~are extensive, complicated and expensive. The General Assembly, therefore, authorizes the Treasury Board to make~~
26 ~~available to the Commonwealth, to counties, cities and towns in the Commonwealth, and to their agencies, institutions, and~~
27 ~~authorities or any combination of the foregoing assistance as provided in this article in making and accounting for~~
28 ~~investments.~~

29 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
30 B, Transaction of Public Business.

31 ~~§ 2.1-234.0:2. Definitions.~~

32 ~~As used in this article:~~

33 ~~"Bonds" means bonds or other obligations issued by the Commonwealth, by counties, cities and towns, and by their~~
34 ~~agencies, institutions, and authorities or by any combination of the foregoing under the provisions of the Public Finance Act (§~~
35 ~~15.1-227.1 et seq.), or otherwise, the interest on which is intended to be excludable from the gross income of the recipients~~
36 ~~thereof for federal income tax purposes.~~

37 ~~"Depository institution" means any commercial bank or trust company, savings institution or (building and loan~~
38 ~~association) insured by an agency or instrumentality of the United States government.~~

39 ~~"Issuers" means the Commonwealth, counties, cities and towns in the Commonwealth, and their agencies,~~
40 ~~institutions, and authorities.~~

41 ~~"Official handling public funds" or "official" means the treasurer of the issuer or, if there is no officer known as~~
42 ~~treasurer of the issuer, the chief financial officer of the issuer, and any person or entity described in § 58.1-3123.~~

43 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
44 B, Transaction of Public Business.

45 ~~§ 2.1-234.0:3. Powers of the Treasury Board.~~

46 ~~The Treasury Board shall have power:~~

47 ~~1. To provide assistance to issuers in the management of and accounting for their funds, including, without limitation,~~
48 ~~bond proceeds, reserves and sinking funds, and the investment thereof, any portion of the investment earnings on which is or~~
49 ~~may be subject to rebate to the federal government.~~

50 ~~2. For and on behalf of issuers or a pool or pools, and not for its own account, to manage, acquire, hold, trade and~~
51 ~~sell investment obligations that are authorized investments for issuer bond proceeds, reserves, sinking funds or other funds,~~
52 ~~as the case may be.~~

1 ~~3. To establish one or more pools of the issuer bond proceeds, reserves, sinking funds or other funds that are placed~~
2 ~~in the custody of the State Treasurer for investment and reinvestment in authorized investments.~~

3 ~~4. To promulgate regulations necessary and proper for the efficient administration of the pool or pools authorized by~~
4 ~~this article without complying with the Administrative Process Act (§ 9-6.14:1 et seq.), provided that notice and an opportunity~~
5 ~~to submit written comments on such regulations be given to officials handling public funds.~~

6 ~~5. To formulate policies for the investment and reinvestment of funds under management, including funds in the pool~~
7 ~~or pools, and the acquisition, retention, management and disposition of investments.~~

8 ~~6. To delegate the administrative aspects of operating under this article to the State Treasurer, subject to the~~
9 ~~regulations and guidelines promulgated by the Treasury Board.~~

10 ~~7. To retain employees and engage and enter into contracts with independent investment managers, accountants,~~
11 ~~counsel, depository institutions and other advisors and agents, as may be necessary or convenient.~~

12 ~~8. To enter into contracts with issuers with respect to the performance of investment services.~~

13 ~~9. To charge issuers for the costs of its investment services and for its expenses.~~

14 ~~10. To do any and all other acts and things necessary, appropriate or incidental in carrying out the purposes of this~~
15 ~~article.~~

16 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
17 B, Transaction of Public Business.

18 ~~§ 2.1-234.9:4. Powers of issuers.~~

19 ~~Any provision of any general or special law or of any charter to the contrary notwithstanding, issuers shall have the~~
20 ~~power and authority to utilize the investment services of the Treasury Board and for that purpose to enter into contracts with~~
21 ~~the Treasury Board and its agents.~~

22 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
23 B, Transaction of Public Business.

24 ~~§ 2.1-234.9:5. Alternative method.~~

25 ~~This article shall be deemed to provide an additional, alternative method for the performance of actions authorized~~
26 ~~hereby and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as~~
27 ~~in derogation of any powers now existing.~~

28 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
29 B, Transaction of Public Business.

30 ~~§ 2.1-234.9:6. Liberal construction.~~

31 ~~This article, being necessary for the welfare of the people of the Commonwealth, shall be liberally construed to effect~~
32 ~~the purposes thereof.~~

33 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
34 B, Transaction of Public Business.

35 ~~§ 2.1-234.9:7. Inconsistent laws inapplicable.~~

36 ~~Insofar as the provisions of this article are inconsistent with the provisions of any general or special laws or charters,~~
37 ~~or parts thereof, the provisions of this article shall be controlling.~~

38 **DRAFTING NOTE:** This article, Article 7 (§§ 2.1-234.1 through 2.1-234.9:7) of Chapter 14, has been moved to Subtitle II, Part
39 B, Transaction of Public Business.

40 Article 5.

41 Division Of Risk Management.

42 ~~§ 2.1-191.5~~ 2.2-1832. Division of Risk Management.

43 The Division of Risk Management (the "Division"), formerly within the Department of General Services, is hereby
44 transferred to the Department (the "Department") of the Treasury and shall exercise the powers and duties described in this
45 article.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 2.1-191.6~~ 2.2-1833. Property and insurance records to be maintained.

48 The Division shall establish and maintain a file of state-owned buildings and contents, hereinafter inclusively referred
49 to as buildings or properties, and the actual cash value or replacement cost value if insured or replacement cost basis

1 thereof, and the amount of fire and extended coverage, vandalism and malicious mischief, optional perils or all risk insurance
2 coverage thereon. All agencies of the Commonwealth shall keep the Division informed as to the status of all properties under
3 their control.

4 **DRAFTING NOTE:** Technical corrections only.

5 | ~~§ 2-1-101.7~~ 2.2-1834. Inspection of state-owned properties for insurance purposes; determination of coverage;
6 procurement, discontinuance, etc., of insurance.

7 | A. The Division may inspect or ~~may~~ administer a program of self-inspection for all state-owned properties and confer
8 with the proper officials or employees of the several agencies of the Commonwealth for the purpose of determining (i)
9 insurance coverages ~~which that shall be carried on or are necessary~~ with respect to properties under their control and (ii) the
10 manner whereby savings and costs of such insurance may be made. It may seek the assistance of insurance companies and
11 their representatives, and the ~~State Fire Marshal of the Commonwealth~~, in devising means by which hazards may be reduced
12 or eliminated. The Division shall have final responsibility with respect to coverage, noncoverage, provisions of policies,
13 quantity and type of fire and extended coverage, vandalism and malicious mischief, and optional perils or all risk insurance
14 coverage. The Governor may exempt any agency, institution of higher education, or part thereof from any part of the risk
15 management and insurance program.

16 | B. The Division ~~shall have the authority to~~ may change or discontinue fire and extended coverage, vandalism and
17 malicious mischief, optional perils or all risk insurance coverage carried pursuant to bond indentures and other contractual
18 requirements, provided ~~such the~~ change or discontinuance meets with the written approval of the trustee ~~or trustees~~ of the
19 bond indenture and those signatory to the contracts.

20 | C. As its programs are implemented, the Division shall assume the sole responsibility, with the approval of the
21 Governor, for purchasing insurance, self-insuring or combining insurance and self-insurance (i) on all properties of the
22 Commonwealth or (ii) for protection of liabilities or other casualties.

23 **DRAFTING NOTE:** Technical corrections only.

24 | ~~§ 2-1-101.8~~ 2.2-1835. State Insurance Reserve Trust Fund.

25 | A. The State Insurance Reserve Trust Fund (the "Fund") ~~is established under former § 2-1-100.8~~ is continued. The
26 ~~fund~~ Fund and shall consist of the payments required by subsection B ~~of this section~~. The ~~fund~~ Fund shall be under the
27 management and control of ~~the Department of the Treasury, through~~ the Division of Risk Management, and any claims for
28 losses payable out of the ~~fund~~ Fund shall be at the direction of the Division. The ~~fund~~ Fund shall be invested as provided in §
29 ~~2-1-185~~ 2.2-1806 and interest shall be added to the fund as earned.

30 | B. Each agency, department, division, or institution of state government having control over any state structure and
31 contents thereof, or ~~which that~~ participates in any program of insurance operated by the Division of Risk Management, shall
32 pay each year into the ~~State Insurance Reserve Trust Fund~~ or any trust fund established pursuant to the provisions of this
33 article amounts necessary to maintain the trusts at levels of funding deemed adequate by the Division. The Division shall set
34 the premium and administrative costs to be paid to it for providing an insurance plan established pursuant to this section. The
35 premiums and administrative costs set by the Division shall be payable in the amounts, at the time and in the manner that the
36 Division in its sole discretion requires. Premiums and administrative costs need not be uniform among participants, but shall
37 be set to best ~~insure~~ ensure the financial stability of the plan. Whenever any building or structure is under the control of two or
38 more agencies, departments, divisions or institutions of the Commonwealth, the payment required ~~herein~~ shall be prorated
39 upon the basis of percentage of the area controlled.

40 | C. In the event of loss or damage exceeding \$1000 to property on which there is no insurance recovery or limited
41 insurance recovery as a consequence of any action by the Division of Risk Management resulting in noncoverage, reduced
42 insurance, elimination of insured perils or otherwise, the Division shall determine the amount, if any, payable out of the
43 ~~fund~~ Fund, and such amount, when approved by the Governor, shall be final. The amount payable shall be used for the
44 purpose of restoring the damaged structure or rebuilding ~~the same~~ it, as the circumstances may require, but in no event shall
45 the amount payable on account of such loss exceed the actual cash value or the replacement cost value of the property in
46 accordance with the basis of insurance, nor shall the amount payable when added to the insurance recovered exceed the
47 actual cash value or the replacement cost value of the property, as recorded in the property and insurance records of the
48 Division of Risk Management.

49 | D. In addition to the amounts payable under subsection C ~~of this section~~, the costs of operating the Division ~~which~~
50 that are properly allocated to its functions concerning the ~~State Insurance Reserve Trust Fund~~ and other administrative and
51 contractual costs of the Division not otherwise provided for shall be paid out of the ~~State Insurance Reserve Trust Fund~~, for
52 which purposes such funds are ~~hereby~~ appropriated.

53 **DRAFTING NOTE:** Technical corrections only.

54 | ~~§ 2-1-101.10~~ 2.2-1836. Insurance plan for state-owned buildings and state-owned contents of buildings.

3 A. Subject to the approval of the Governor, the ~~Department of the Treasury through its Division of Risk Management~~
4 shall establish an ~~insurance~~ risk management plan which ~~that~~ may be wholly self-insurance or a combination of self-
5 insurance and purchased insurance ~~for the purpose of providing to provide~~ coverage on (i) state-owned buildings and (ii)
6 state-owned contents of buildings owned by the Commonwealth or of buildings not owned by the Commonwealth ~~which that~~
7 are occupied in whole or in part by an agency of the Commonwealth.

8 B. Any insurance plan established pursuant to this section may provide, but not be limited to, physical damage
9 coverage against the perils of (i) fire and lightning; (ii) extended coverage; ~~being defined as for~~ windstorm, hail, smoke,
10 explosion, other than that caused by steam pressure vessels, riot, riot attending a strike, civil commotion, aircraft and vehicles
11 not owned by the Commonwealth; (iii) vandalism and malicious mischief; (iv) optional perils; and (v) all risk insurance.

12 C. Any insurance plan established pursuant to this section shall provide for the establishment of a trust fund or
13 contribution to the State Insurance Reserve Trust Fund for the payment of claims covered under such a plan, which are not
14 recoverable from purchased insurance. The funds shall be invested as provided in § ~~2-4-185~~ 2-2-1806 and interest shall be
15 added to the fund as earned. The trust fund shall also provide for payment of administrative costs, contractual costs and other
16 expenses related to the administration of ~~such a~~ the plan.

17 D. The insurance plan for state-owned buildings and state-owned contents of buildings shall be submitted to the
18 Governor for approval prior to implementation.

19 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Department of General Services, the term
20 "insurance plan" has been replaced throughout this article with the term "risk management plan" to reflect contemporary
21 vernacular.

22 § ~~2-4-184.44~~ 2-2-1837. ~~Insurance~~ Risk management plan for public liability.

23 A. Subject to the approval of the Governor, the ~~Department of the Treasury through its Division of Risk Management~~
24 shall establish an ~~insurance~~ risk management plan, which may be purchased insurance, self-insurance or a combination of
25 self-insurance and purchased insurance to provide:

26 1. ~~To provide protection~~ Protection against liability imposed by law for damages resulting from any claim:

27 a. ~~Any claim made~~ Made against any state department, agency, institution, board, commission, officer, agent, or
28 employee thereof for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and
29 in the course and scope of employment or authorization;

30 b. ~~Any claim made~~ Made against participants, other than professional counsel, in student disciplinary proceedings at
31 state ~~public~~ institutions of higher education for nonmalicious acts or omissions of any nature in the course and scope of
32 participation in ~~such the~~ proceedings; or

33 c. ~~Any claim resulting~~ Resulting from an authorized indemnification agreement entered into by a ~~state~~ Virginia public
34 institution of higher education, which agreements the institutions ~~are hereby authorized to may~~ execute if the Governor (i)
35 considers in advance of execution ~~(i)(a)~~ the institution's analysis of the relevant public benefit and risk of liability, ~~(ii)(b)~~ the
36 ~~Division of Risk Management's~~ Division's charge to be assessed against the institution for providing insurance or self-
37 insurance coverage for the claims resulting from the indemnification agreement, and ~~(iii)(c)~~ the Office of the Attorney
38 General's comments, and ~~the Governor~~ (ii) determines that execution is necessary to further the public's best interests;
39 ~~provided the~~ The indemnification agreement ~~limits shall limit~~ the institution's total liability ~~thereunder~~ to a stated dollar amount
40 and ~~the agreement notifies shall notify~~ the contractor that the full faith and credit of the Commonwealth are not pledged or
41 committed to payment of the institution's obligation under the agreement;

42 2. ~~To further provide protection~~ Protection against tort liability and incidental medical payments arising out of the
43 ownership, maintenance or use of buildings, grounds or properties owned or leased by the Commonwealth or used by state
44 employees or other authorized persons in the course of their employment; and

45 3. ~~If the Division of Risk Management is informed by the Attorney General's Office that it will not provide a defense~~
46 ~~due to a conflict or other appropriate reason, to provide for~~ For the payment of attorneys' fees and expenses incurred in
47 defending such persons and entities concerning any claim ~~which that~~ (i) arises from their governmental employment or
48 authorization, ~~which that~~ (ii) arises from their participation in such student disciplinary proceedings, or ~~which~~ (iii) is described
49 in any such indemnification agreement, where the Division is informed by the Attorney General's office that it will not provide
50 a defense due to a conflict or other appropriate reason.

51 B. Any ~~insurance~~ risk management plan established pursuant to this section shall provide for the establishment of a
52 trust fund or contribution to the State Insurance Reserve Trust Fund for the payment of claims covered under ~~such the~~ plan.
53 The funds shall be invested as provided in § ~~2-4-185~~ 2-2-1806 and interest shall be added to the fund as earned. The trust
54 fund shall also provide for payment of administrative costs, contractual costs, and other expenses related to the
55 administration of such plan.

56 C. The ~~insurance~~ risk management plan for public liability shall be submitted to the Governor for approval prior to
57 implementation.

58 D. The ~~insurance~~ risk management plan established pursuant to this section shall provide protection against
59 professional liability imposed by law for damages resulting from any claim made against a local electoral board, electoral

1 board member or general registrar for acts or omissions of any nature while acting in an authorized governmental or
2 proprietary capacity and in the course and scope of employment or authorization, subject to the limitations of the ~~insuran~~
3 risk management plan.

4 E. The ~~insuranc~~risk management plan established pursuant to this section shall provide protection against any
5 claim made against any soil and water conservation district, director, officer, agent or employee thereof, (i) arising out of the
6 ownership, maintenance or use of buildings, grounds or properties owned, leased or maintained by any such district or used
7 by district employees or other authorized persons in the course of their employment, or (ii) arising out of acts or omissions of
8 any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or
9 authorization.

10 F. The ~~insuranc~~risk management plan established pursuant to this section shall provide protection against
11 professional liability imposed by law for damages resulting from any claim made against a local school board selection
12 commission or local school board selection commission members for acts or omissions of any nature while acting in an
13 authorized governmental or proprietary capacity and in the course and scope of authorization, subject to the limitations of the
14 ~~insuranc~~risk management plan.

15 G. The ~~insuranc~~risk management plan established pursuant to this section shall provide coverage for any matter
16 that involves or could involve an action or proceeding against a judge ~~occurring on or after September 8, 1993~~, the nature of
17 which is designed to determine whether discipline or other sanction of the judge for malfeasance or misfeasance is
18 appropriate or to otherwise determine the fitness of ~~such the~~ judge to hold office or to continue his employment. No coverage
19 ~~nor~~ or indemnification shall be made pursuant to this subsection when the Supreme Court of Virginia finds that the judge
20 should be censured or removed from office pursuant to Section 10 of Article VI of the Constitution of Virginia or statutes
21 enacted pursuant thereto.

22 **DRAFTING NOTE:** Technical corrections only.

23 ~~§ 2-1-191.0~~ 2.2-1838. Insurance of state motor vehicles.

24 A. Subject to the approval of the Governor, the ~~Department of the Treasury through its Division of Risk Management~~
25 shall establish ~~an insurance~~ a risk management plan, which may be purchased insurance, self-insurance or a combination of
26 self-insurance and purchased insurance:

27 1. ~~To~~ to provide (i) protection for the Commonwealth, its officers and employees and other authorized persons
28 against tort liability and incidental medical payments arising out of the ownership, maintenance or use of motor vehicles
29 owned or leased by the Commonwealth or used by state employees or other authorized persons in the course of th
30 employment; and

31 2. ~~If the Division of Risk Management is informed by the Attorney General's office that it will not provide a defense~~
32 due to a conflict or other appropriate reason, to provide (ii) for payment of attorneys' fees and expenses incurred in defending
33 such persons and entities concerning any claim ~~which that~~ arises from their governmental employment or authorization where
34 the Division is informed by the Attorney General's office that it will not provide a defense due to a conflict or other appropriate
35 reason.

36 B. The ~~insuranc~~risk management plan shall provide for the establishment of a trust fund or a contribution to the
37 State Insurance Reserve Trust Fund for the payment of claims covered under ~~such the~~ plan arising out of the ownership,
38 maintenance or use of motor vehicles owned or leased by the Commonwealth or used by state employees or other authorized
39 persons in the course of their employment. The funds shall be invested as provided in ~~§ 2-1-185~~ 2.2-1806 and interest shall
40 be added to the fund as earned. The plan shall also provide for payment of the expenses related to the administration of a
41 motor vehicle insurance program for the Commonwealth. The ~~insurance~~ risk management plan shall be submitted to the
42 Governor for approval prior to implementation.

43 C. Any ~~insuranc~~risk management plan for state motor vehicles established pursuant to this section shall provide (i)
44 protection against the uninsured motorist at limits not less than those provided in § 46.2-100, (ii) incidental medical payments
45 of not less than \$5,000 per person to state employees and other authorized persons, and (iii) recovery of damages for loss of
46 use of a motor vehicle, as provided in § 8.01-66.

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§ 2-1-101.12~~ 2.2-1839. ~~Insurance~~ Risk management plans administered by the ~~Department of General Services~~ the
49 Treasury, Division of Risk Management, for political subdivisions and constitutional officers.

50 A. The ~~Department of the Treasury, through its Division of Risk Management,~~ shall establish ~~an insurance~~ a risk
51 management plan ~~or plans~~ subject to the approval of the Governor, which may be purchased insurance, self-insurance or a
52 combination of self-insurance and purchased insurance to provide protection against liability imposed by law for damages
53 and against incidental medical payments resulting from any claim made against any county, city or town; authority, board, or
54 commission; sanitation, soil and water, planning or other district; public service corporation owned, operated or controlled by
55 a locality or local government authority; constitutional officer; state court-appointed attorney; affiliate or foundation of a state
56 department, agency or institution; or the officers, agents or employees of any of the foregoing for acts or omissions of ar

1 nature while in an authorized governmental or proprietary capacity and in the course and scope of employment or
2 authorization.

3 B. Participation in ~~such insurance~~the risk management plan shall be voluntary and shall be approved by the
4 participant's respective governing body or by the State Compensation Board in the case of constitutional officers, by the office
5 of the Executive Secretary of the Virginia Supreme Court in the case of state court-appointed attorneys, and by the
6 ~~Department of the Treasury, Division of Risk Management~~. Upon such approval, the Division shall assume sole responsibility
7 for plan management, compliance, or removal.

8 C. ~~The Division of Risk Management~~ shall provide for the legal defense of participating entities and shall reserve the
9 right to settle or defend claims presented under the plan. All prejudgment settlements shall be approved in advance by the
10 ~~Division of Risk Management~~.

11 D. ~~An insurance~~The risk management plan established pursuant to this section shall provide for the establishment
12 of a trust fund for the payment of claims covered under such plan. The funds shall be invested in the manner provided in §
13 ~~2-4-185~~ 2.2-1806 and interest shall be added to the fund as earned.

14 The trust fund shall also provide for payment of legal defense costs, actuarial costs, administrative costs, contractual
15 costs and all other expenses related to the administration of such plan.

16 E. ~~The Division of Risk Management~~ shall, in its sole discretion, set the premium and administrative cost to be paid
17 to it for providing ~~an insurance~~a risk management plan established pursuant to this section. The premiums and administrative
18 costs set by the Division shall be payable in the amounts at the time and in the manner that the Division in its sole discretion
19 shall require. The premiums and administrative costs need not be uniform among participants, but shall be set so as to best
20 ~~insure~~ensure the financial stability of the plan.

21 **DRAFTING NOTE:** Technical corrections only.

22 §~~2-4-191-13~~ 2.2-1840. Blanket surety bond plan for state and local employees.

23 A. Subject to the approval of the Governor, the ~~Department of the Treasury through its~~ Division of Risk Management
24 shall establish a program of blanket surety bonding to provide surety for the faithful performance of duty for all state
25 employees required by statute to be bonded, and for other agency employees handling funds or having access to funds
26 whose function, in the opinion of the agency head and the Division, should be bonded.

27 B. Local employees, including superintendents and jail officers of regional jail facilities as described in § 53.1-110,
28 local constitutional officers, and those employees of the Supreme Court for whom the Commonwealth pays all or part of the
29 costs of surety bonds shall be required to participate in the blanket surety bond program ~~promulgated~~adopted by the Division
30 through the Comptroller and the Compensation Board. The ~~Division of Risk Management~~ shall exclude ~~from the provisions of~~
31 ~~this section~~ clerks of the circuit court with respect to the moneys they hold pursuant to § 8.01-582 insofar as coverage is
32 provided under § ~~2-4-191-14~~ 2.2-1841 for their faithful performance concerning those moneys. Before implementing the
33 program, the Division shall determine that ~~such~~the program will be of less cost to the Commonwealth than the aggregate of
34 individual bonds costs.

35 C. The blanket surety bonding plan for state employees shall be submitted to the Governor for approval prior to
36 implementation.

37 D. Employees or officers of a public service authority created under the Virginia Water and Sewer Authorities Act (§
38 ~~45-1-1239~~ 15.2-5100 et seq.) ~~are authorized to~~may participate in the blanket surety bond program ~~promulgated~~adopted by
39 the Division through the Comptroller and the Compensation Board whenever any federal or state agency lends or guarantees
40 funds to a public service authority created under the Virginia Water and Sewer Authorities Act where the funds are utilized in
41 the construction or capitalization of projects authorized under the Act, and there is a condition of ~~such~~the loan or guarantee
42 that those employees or officers of the authority who have access to ~~such~~the funds be bonded. Participation by such
43 employees or officers shall be approved by the governing body of the county or city ~~which~~that created the authority or is a
44 member of the authority, with approval of the ~~Department of General Services, Division of Risk Management~~.

45 **DRAFTING NOTE:** Technical corrections only.

46 §~~2-4-191-14~~ 2.2-1841. Blanket surety bond plan for moneys under control of court.

47 The ~~Department of the Treasury through its~~ Division of Risk Management shall establish a program of blanket surety
48 bonding to provide surety for the faithful discharge of duty with respect to moneys held pursuant to §§ 8.01-582 and 8.01-600
49 by all general receivers and clerks. General receivers and clerks shall participate in the program. The Division's cost of
50 obtaining and administering the blanket surety bond shall be paid from those moneys covered by the bond.

51 **DRAFTING NOTE:** Technical corrections only.

52 §~~2-4-191-15~~ 2.2-1842. Sovereign immunity.

1 Although the provisions of this article are subject to those of Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title
2 8.01, nothing in this article shall be deemed an additional expressed or implied waiver of the Commonwealth's sovereign
3 immunity.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 2-1-191.16~~ 2.2-1843. Loss prevention.

6 The Division of ~~Risk Management~~ may develop and implement risk management and loss prevention programs
7 related to ~~insurance~~ risk management plans established pursuant to the provisions of this article. The Division may confer with
8 the proper officials or employees of all agencies and institutions of the Commonwealth and of participating entities and
9 persons pursuant to ~~§ 2-1-191.12~~ 2.2-1839, for the purpose of determining risk management and loss prevention programs
10 which ~~that~~ shall be carried on with respect to properties and governmental operations under their control and may determine
11 the manner in which ~~such~~ the programs may be developed, implemented and enforced. The Division may seek the
12 assistance of risk management consulting companies, insurance companies, loss prevention engineering companies, and
13 their representatives, the State Fire Marshal of the Commonwealth, and the Division of Engineering and Buildings in devising
14 means by which causes of loss may be reduced or eliminated. The Division shall have the final responsibility with respect to
15 implementation or nonimplementation of a plan ~~or plans~~ by an agency or institution of the Commonwealth and by a
16 participating entity or person pursuant to ~~§ 2-1-191.12~~ 2.2-1839. Information contained in investigative reports of any state or
17 local police department, sheriff's office, fire department or fire marshal relevant to ~~insurance~~ risk management plans
18 established pursuant to the provisions of this article shall be made available to the Division of ~~Risk Management~~ upon
19 request. The relevant information requested shall be furnished within a reasonable time, not to exceed thirty days.

20 **DRAFTING NOTE:** Technical corrections only.

21 CHAPTER 19.

22 DEPARTMENT OF VETERANS' AFFAIRS.

23 ~~§ 2-1-736~~ Division continued and redesignated.

24 A. ~~The Division of War Veterans' Claims, created pursuant to Chapter 56 of the Acts of Assembly of 1945,~~
25 ~~sometimes referred to in this chapter as "the Department" is hereby continued and redesignated the Department of Veterans'~~
26 ~~Affairs.~~

27 B. ~~Whenever in this Code or in any other law of the Commonwealth the term "Division of War Veterans' Claims" is~~
28 ~~used, it shall be taken to mean the Department of Veterans' Affairs.~~

29 **DRAFTING NOTE:** This section has been deleted as obsolete.

30 ~~§ 2-1-737~~ 2.2-1900. ~~Chief executive officer; appointment~~ Department created; appointment of director.

31 ~~The chief executive officer of the Department shall be known as the Director. The Director~~ A. There is created a
32 Department of Veterans' Affairs (the "Department"), which shall be headed by a Director shall be appointed by the Governor,
33 subject to confirmation of the General Assembly, and to serve at the his pleasure of the Governor.

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

36 **DRAFTING NOTE:** Technical corrections only. Subsection B was added to standardize, among the various agencies in this
37 title, language relating to the Director's exercise of powers/duties conferred by law, etc.

38 ~~§ 2-1-738~~ 2.2-1901. General Additional powers and duties of Director.

39 A. The Director shall establish, equip, and operate ~~such~~ offices as may be necessary or desirable to render
40 assistance to veterans of the armed forces of the United States and their Virginia-domiciled surviving spouses, orphans, and
41 dependents in matters of rehabilitation and in the preparation, presentation, and prosecution of all lawful claims, by, or on
42 behalf of, such veterans and their surviving spouses, orphans, and dependents, to obtain the benefit of their rights and
43 privileges under various federal, state, and local laws enacted for their benefit.

44 B. However, after an original claim has been disallowed by the U.S. Department of Veterans Affairs, the Director may
45 cancel a veteran's power of attorney to the Virginia Department of Veterans Affairs and discontinue representation of that
46 veteran when, in the Director's judgment, the claim is not a lawful one.

47 C. For the purposes of this section, "lawful claim" means a claim which, to the best of the claimant's knowledge,
48 information and belief, formed after reasonable inquiry, is well-grounded in fact and is warranted by existing law or is a good
49 faith argument for the extension, modification or reversal of existing law related to the application of such claimant's right or
50 privilege.

51 ~~The Director is authorized to employ such personnel as in his judgment may be necessary for the proper operation~~
52 ~~of such offices and for the proper discharge of the duties and functions of such Department.~~

~~Such offices—D. Offices of the Department shall be so located as to make the their services of the Department conveniently available to such veterans and their surviving spouses, orphans, and dependents. Appropriate geographic areas of responsibility shall be assigned from time to time for each office. The various localities in each such area shall be visited by a representative attached to the office having responsibility for the area at such intervals as may be necessary or desirable.~~

DRAFTING NOTE: Technical corrections. The fourth paragraph has been deleted as duplicative of the general powers of agencies created in this subtitle to employ necessary personnel to carry out their statutory responsibilities (§ 2.2-601 of Chapter 6, General provisions).

~~§ 2.1-730 2.2-1902. Veterans' cemeteries.~~

~~In the event that a state veterans' cemetery or cemeteries are is established in the Commonwealth, the Department shall be responsible for the control and operation of such the cemetery or cemeteries.~~

~~Upon appropriation to the Department of funds necessary to acquire and develop a state veterans' cemetery, the Department shall proceed forthwith promptly to make application to the United States Veterans Administration Department of Veterans' Affairs for all available fifty percent matching funds pursuant to Public Law 98-223 (38 U.S.C. § 2408, State Cemetery Grant Program).~~

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-730.1. Virginia Veterans Cemetery Board created; purpose.~~

~~The Virginia Veterans Cemetery Board (the Board) is hereby created and shall be an advisory board within the meaning of § 0-6.25. The Board shall advise and make recommendations to the Department of Veterans' Affairs (the Department) regarding the control and operation of such veterans' cemeteries as may be established in the Commonwealth pursuant to § 2.1-730.~~

DRAFTING NOTE: This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under the heading of "Boards".

~~§ 2.1-730.2. Membership; terms; vacancies; chairman and vice chairman; compensation.~~

~~A. The Board shall consist of ten members as follows: three members from the House of Delegates, to be appointed by the Speaker of the House; two members from the Senate, to be appointed by the Senate Committee on Privileges and Elections; and five members from the Commonwealth at large, each of whom shall be a member in good standing of a veteran service organization recognized by the U.S. Department of Veteran Affairs, to be appointed by the Governor.~~

~~B. All appointments to the Board shall be for terms of four years. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. Whenever any legislative member fails to retain his membership in the house from which he was appointed, he shall relinquish his membership on the Board, and the appointing authority who appointed such member shall make an appointment from his respective house to complete the term. Any member may be reappointed for successive terms.~~

~~C. The members of the Board shall elect a chairman and a vice chairman annually. The Board shall meet at such times as it deems appropriate and on call of the chairman when, in his opinion, meetings are expedient or necessary. A majority of the membership of the Board shall constitute a quorum for all purposes.~~

~~D. Legislative members of the Board shall receive such compensation as is set forth in § 14.1-18, and all members shall be reimbursed for the actual expenses incurred by them in the performance of their Board duties.~~

DRAFTING NOTE: This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under the heading of "Boards."

~~§ 2.1-730.3. Powers and duties of the Board.~~

~~With regard to such veterans' cemeteries as may be established in the Commonwealth pursuant to § 2.1-730, the Board shall make recommendations and provide advice to the Department regarding: (i) care, maintenance, and upkeep; (ii) fees and costs; and (iii) acceptance of gifts and grants and expenditure of funds.~~

DRAFTING NOTE: This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under the heading of "Boards".

~~§ 2.1-730.4. Staff; cooperation from other state agencies.~~

~~The Department shall serve as staff to the Board. All agencies of the Commonwealth shall assist the Board upon request.~~

DRAFTING NOTE: This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under the heading of "Boards".

~~§ 2.1-740 2.2-1903. Services to Vietnam veterans.~~

1 In addition to its other duties, the Department shall (i) disseminate literature and information on Agent Orange to
2 Vietnam veterans in the Commonwealth; (ii) establish a mechanism for informing Vietnam veterans about the availability
3 free screening for exposure to Agent Orange in Veterans Administration facilities; (iii) develop cooperative relationships
4 other organizations for the purpose of disseminating literature and information on Agent Orange to Vietnam veterans and their
5 families; (iv) monitor congressional actions related to Vietnam veterans and exposure to Agent Orange and the developments
6 in class action suits; and (v) join and attend the National Conference of State Agent Orange Programs.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2.1-741. Board on Veterans' Affairs; appointment; terms.~~

9 ~~A. There shall be a Board on Veterans' Affairs, sometimes referred to in this chapter as "the Board," in the
10 Department of Veterans' Affairs consisting of ten members appointed by the Governor. Three shall be chosen from a list of
11 nominees submitted by the Speaker of the House of Delegates and two shall be chosen from a list of nominees submitted by
12 the Senate Committee on Privileges and Elections. In making appointments the Governor shall endeavor to select appointees
13 of such qualifications and experience as will qualify them to advise the Department and the Director on matters affecting the
14 veterans of Virginia and afford a balanced geographical representation on the Board. No appointee to the Board shall be an
15 officer or employee of the Department.~~

16 ~~B. Members of the Board shall be appointed for terms of four years each beginning July 1, 1988. Of the members
17 first appointed, two shall be for terms of one year, two shall be for terms of two years, three shall be for terms of three years,
18 and three shall be for terms of four years. Thereafter, the appointments shall be for terms of four years, except that any
19 appointment to fill a vacancy shall be for the unexpired term. No person shall be eligible to serve more than two successive
20 full terms. However, any person heretofore or hereafter appointed to fill a vacancy may be eligible for two additional
21 successive full terms after the term of the vacancy for which he was appointed has expired. Members of the Board may be
22 suspended or removed by the Governor at his pleasure.~~

23 ~~C. Before entering upon the discharge of his duties, each member of the Board shall take the usual oath of office.~~

24 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under
25 the heading of "Boards".

26 ~~§ 2.1-742. Board officers and meetings.~~

27 ~~The Board shall elect a chairman from its membership and, pursuant to rules adopted by it, may elect one of its
28 members as vice chairman. It shall elect one of its members as secretary. The Board shall meet at such times as it de
29 appropriate and on call of the chairman when, in his opinion, meetings are expedient or necessary. A majority of the cur
30 membership of the Board shall constitute a quorum for all purposes.~~

31 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under
32 the heading of "Boards".

33 ~~§ 2.1-743. General powers and duties of Board.~~

34 ~~A. The Board shall have the following powers and duties:~~

35 ~~1. To advise the Director and, when requested, to confer with and advise him upon such matters as may arise in the
36 performance of his duties;~~

37 ~~2. To investigate questions and consider problems when requested by the Director or the Governor and report its
38 findings and conclusions;~~

39 ~~3. To initiate investigations and consider problems and make recommendations to the Director or to the Governor of
40 its own motion;~~

41 ~~4. To study all matters affecting the welfare of Virginia citizens who are veterans or dependents or survivors of such
42 veterans, and to consider and recommend legislation for their benefit;~~

43 ~~5. To keep advised on the administration of all laws concerning veterans and their dependents; and~~

44 ~~6. To submit a report to the Governor and General Assembly ninety days prior to the convening of each even-
45 numbered year Session of the General Assembly, setting forth its findings and recommendations.~~

46 ~~B. The Board may make recommendations to acquire land, buildings, furnishings, and equipment for the
47 establishment of a state veterans' cemetery or cemeteries. In connection with the establishment of a cemetery, the Board
48 may make recommendations to accept gifts, apply for and receive grants, and expend funds made available by the federal
49 government, private individuals, veterans' organizations, and all other sources. The Board shall recommend to the Governor
50 candidates for the position of director of a veterans' cemetery.~~

51 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under
52 the heading of "Boards".

53 ~~§ 2.1-744. Staff for the Board.~~

1 Staff to support the activities of the Board shall be provided by the Office of the Secretary of Administration and shall
2 perform the administrative and support services that the Division of Legislative Services provided to the Commission on
3 Veterans' Affairs prior to July 1, 1988.

4 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under
5 the heading of "Boards".

6 ~~§ 2.1-744.1. Virginia Veterans Care Center Board of Trustees; appointments; terms.~~

7 ~~A. The Virginia Veterans Care Center Board of Trustees is hereby established and shall be referred to in this chapter
8 as the Board. The Board is a supervisory board within the meaning of § 9-6.25 and shall operate as an agency under the
9 supervision and direction of the Secretary of Administration. The Board shall govern and oversee the administration of the
10 Virginia Veterans Care Center, located in the City of Roanoke, adjacent to the United States Veterans Administration hospital.
11 The purpose of the Virginia Veterans Care Center is to provide adult home and nursing home care for Virginia residents who
12 are veterans of the armed forces of the United States or those who were Virginia residents at the time of their entry in the
13 armed forces.~~

14 ~~B. The Board shall be composed of ten members, all residents of the Commonwealth, to be appointed by the
15 Governor. Three members shall be chosen from a list of nominees submitted by the Speaker of the House of Delegates. Two
16 members shall be chosen from a list of nominees submitted by the Senate Committee on Privileges and Elections. In making
17 appointments, the Governor shall select members who possess the qualifications and experience necessary to control the
18 operations of the Virginia Veterans Care Center, so as to provide financially sound, high quality care to its residents.~~

19 ~~C. Members of the Board shall be appointed for four year terms. Any appointment to fill a vacancy shall be for the
20 unexpired term. No person shall be eligible to serve for more than two successive four year terms. However, any person
21 appointed to fill a vacancy may be eligible for two successive full terms after the term of the vacancy for which he was
22 appointed has expired. Members of the Board may be removed by the Governor at his pleasure.~~

23 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under
24 the heading of "Boards".

25 ~~§ 2.1-744.2. Board bylaws; officers; meetings; executive committee.~~

26 ~~The Board shall adopt bylaws governing its organization and procedures and may, from time to time, amend the
27 same. The Board shall elect from its members a chairman and other such officers as its bylaws may provide. The Board
28 shall meet at such times as it deems appropriate and on call of the chairman when, in his opinion, meetings are necessary. A
29 majority of the current membership of the Board shall constitute a quorum for all purposes. The Board also shall appoint an
30 executive committee, composed of not less than five members, which shall exercise the powers vested in and perform the
31 duties imposed upon the Board by this chapter to the extent permitted by the Board in its bylaws.~~

32 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under
33 the heading of "Boards".

34 ~~§ 2.1-744.3. General powers and duties of Board.~~

35 ~~The Board shall:~~

- 36 ~~1. Manage, control, maintain, and operate the Virginia Veterans' Care Center and all its assets;~~
- 37 ~~2. Set fees for residence and care at the Virginia Veterans' Care Center;~~
- 38 ~~3. Adopt rules and regulations for the use of, residence in, and care at the Center;~~
- 39 ~~4. Enter into contracts with one or more entities to operate the Center on behalf of the Board;~~
- 40 ~~5. Employ and discharge from employment an executive director and such other persons as may be necessary to~~
41 ~~assist the Board in carrying out its powers and duties;~~
- 42 ~~6. Determine which programs and activities will be offered at the Center; and~~
- 43 ~~7. Determine eligibility criteria for residence or care in the Center.~~

44 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under
45 the heading of "Boards".

46 ~~§ 2.1-744.4. Gifts, grants, bequests, etc.; property.~~

47 ~~A. The Board is authorized to seek, promote, and stimulate gifts, grants, bequests, and devises for the endowment,
48 maintenance, and improvement of the Center and its operation. With the approval of the Governor, the Board may apply for,
49 expend, and administer such grants, gifts, bequests, or devises from any source as may become available in connection with
50 its duties under this chapter, and comply with such conditions and requirements as may be imposed in connection therewith.~~

51 ~~B. The Board is authorized to sell, dispose of, liquidate, and change the form of any funds, securities, or other
52 property, real or personal, provided that such action is consistent with the terms of any gift, grant, bequest, or devise by which~~

1 ~~the property may have been obtained, and to take all actions necessary with respect to any property held by the Board.~~
2 ~~However, the land and improvements which constitute the Virginia Veterans Care Center may be leased only to a contractor~~
3 ~~who is to operate the Virginia Veterans Care Center. Such land and improvements may be otherwise disposed of or~~
4 ~~encumbered only with the prior approval of the Governor and in accordance with the general provisions for the management~~
5 ~~of real property contained in §§ 2.1-504 through 2.1-512.~~

6 **DRAFTING NOTE:** This section has been moved to Part D of Subtitle I, State Authorities, Boards, Commissions, etc., under
7 the heading of "Boards".

8 ~~§-2.1-744.5~~ 2.2-1904. Virginia Veterans Care Center Facility Maintenance Fund.

9 There is ~~hereby~~ created the Virginia Veterans Care Center Facility Maintenance Fund. The Fund shall be used for
10 equipment, repair and renovation of the Veterans Care Center and (the "Center"), located in the City of Roanoke, adjacent to
11 the United States Veterans Administration hospital. The Fund also shall be used to pay for maintenance reserve and capital
12 outlay projects appropriated to the Virginia Veterans Care Center Board of Trustees (the "Board") or the Center in the general
13 appropriation act.

14 The Fund shall consist of depreciation or similar revenue received under contracts to operate the ~~Virginia Veterans~~
15 ~~Care Center~~, or any gifts, grants, bequests, or devises received for the Fund's purpose by the Board. The Fund shall be
16 established on the books of the Comptroller. Any funds remaining in ~~such the~~ Fund at the end of a biennium shall not revert
17 to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. ~~The Board shall~~
18 ~~develop guidelines for the use of the Fund. The Board shall report to the Secretary of Administration annually on the uses of~~
19 ~~the Fund.~~

20 **DRAFTING NOTE:** Technical corrections. The last sentence has been moved to proposed § 2.2-2436 (existing 2.1-744.3) in
21 Part D of Subtitle I in the chapter dealing with the Virginia Veterans Care Center Board of Trustees as new subdivisions 8 and
22 9.

23 ~~§-2.1-744.6~~ 2.2-1905. Virginia Veterans Care Center Endowment Fund.

24 There is ~~hereby~~ created the Virginia Veterans Care Center Endowment Fund. The Fund shall be used to support
25 programs, activities, and services for residents of the Virginia Veterans Care Center. It is the intent of the General Assembly
26 that the Fund shall not be used as operating revenue for the Center, but in addition thereto to enhance the Center and the
27 lives of its residents.

28 The Fund shall consist of any gifts, grants, bequests, or devises received for the Fund's purpose by the Virginia
29 Veterans Care Center Board of Trustees (the "Board"). The Fund shall be established on the books of the Comptroller. Any
30 funds remaining in such Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund.
31 Interest earned on the Fund shall be credited to the Fund. ~~The Board shall develop guidelines for the use of the Fund. The~~
32 ~~Board shall report to the Secretary of Administration annually on the uses of the Fund.~~

33 **DRAFTING NOTE:** Technical corrections. The last sentence has been moved to proposed § 2.2-2436 (existing 2.1-744.3) in
34 Part D of Subtitle I in the chapter dealing with the Virginia Veterans Care Center Board of Trustees as new subdivisions 8 and
35 9.

36 CHAPTER 20.

37 GOVERNOR'S EMPLOYMENT TRAINING DEPARTMENT.

38 ~~§-2.1-706~~ 2.2-2000. Creation of Department; appointment of Executive Director; Powers and duties of Executive
39 Director.

40 A. There is created a Governor's Employment and Training Department (the "Department"), which shall be headed
41 by an Executive Director appointed by the Governor to serve at his pleasure.

42 B. The Director of the Governor's Employment and Training Department shall, under the direction and control of the
43 Governor, through the Secretary of Human Resources, exercise ~~such the~~ powers and perform ~~such the~~ duties ~~as are~~
44 conferred or imposed upon him by law upon him and shall perform such other duties as may be required of him by the
45 Governor.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§-2.1-704~~ 2.2-2001. Participation by the Commonwealth in federal programs of employment training afforded under
48 the Job Training Partnership Act; ratification of acts of Governor.

49 A. It shall be the policy of the Commonwealth to participate in the programs afforded pursuant to the Job Training
50 Partnership Act (Pub. L. 105-220), ~~hereinafter (the "Act,")~~ adopted by the Congress of the United States, in accordance with
51 the provisions of this chapter.

2 B. The acts of the Governor by way of implementation of the programs and requirements of the Act in Virginia are
3 hereby authorized, ratified and confirmed, including, without limitation, the creation of a state job training coordinating council
4 solely as an advisory body, as provided by the Act.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 2.1-705. Governor's Employment and Training Division continued as Governor's Employment and Training~~
6 ~~Department; appointment of Executive Director.~~

7 ~~The Governor's Employment and Training Division is continued and shall hereafter be known as the Governor's~~
8 ~~Employment and Training Department. The Department shall be subordinate to the Secretary of Human Resources.~~

9 ~~Wherever the word "Division" is used in this Code meaning the Governor's Employment and Training Division, and~~
10 ~~wherever the words "Governor's Employment and Training Division" are used in this Code, they shall mean Department and~~
11 ~~Governor's Employment and Training Department respectively. The Department shall be headed by an Executive Director~~
12 ~~who shall be appointed by and serve at the pleasure of the Governor.~~

13 **DRAFTING NOTE:** This section has been deleted as obsolete.

14 ~~§ 2.1-708 2.2-2002. Powers-Additional powers of Department.~~

15 The Department shall have the following additional powers to be exercised under the direction and control of the
16 Executive Director:

17 1. Accept funds from the United States government allocated to the Commonwealth pursuant to the Act. The
18 Department ~~is empowered to~~ may comply with such conditions and execute such agreements as may be necessary or
19 appropriate in connection with the acceptance of such funds.

20 2. Allocate funds received from the United States government to carry out the various programs authorized by the
21 Act in accordance with the requirements of the Act, applicable regulations of the United States Department of Labor and the
22 policy of the Department.

23 3. Adopt and enforce by appropriate action such policies and regulations having the force of law consistent with the
24 Act as may be necessary or appropriate to carry out the purposes of this chapter and the duties imposed upon the Governor
25 by the Act to the end that job training programs afforded by the Act ~~be~~ are carried out efficiently in conformity with the
requirements of the Act and that program abuse and misexpenditure of funds received from the United States ~~be~~ is
prevented.

28 4. ~~Make and enter into all contracts and agreements necessary or incidental to the performance of its duties under~~
29 ~~this chapter, including, but not limited to, contracts with the United States, agencies and governmental subdivisions of the~~
30 ~~Commonwealth and agencies of adjoining states and the District of Columbia which perform duties similar to the Department.~~

31 ~~5. Employ such personnel as may be necessary to carry out the purposes of this chapter.~~

32 ~~6. Provide such review at state level of grievances, audit related issues, and such other matters delegated to the~~
33 ~~Department by the Governor as may be required by the Act and applicable regulations of the United States Department of~~
34 ~~Labor. Such~~ The review shall be conducted solely in accordance with the requirements of the Act, the applicable regulations
35 and such internal procedures as may be adopted by the Department. Decisions of the Department pursuant hereto shall be
36 reviewable solely in accordance with the terms of the Act and the regulations. The provisions of Article 45 (~~§ 9-6.14:15-4025~~
37 ~~et seq.~~) of the Administrative Process Act shall ~~have no application~~ not apply to such decisions.

38 5. Do all acts necessary or appropriate to carry out the purposes of this chapter.

39 **DRAFTING NOTE:** Technical corrections only. The stricken language has been consolidated with other like provisions into
40 proposed § 2.2-601, which is located at the beginning of Chapter 6—State agencies; in Article 1, general provisions. The
41 powers listed in this proposed section come from existing § 2.1-708, and are powers granted specifically to the Department of
42 Veterans' Affairs.

43 ~~§ 2.1-707 2.2-2003. Duties of Department.~~

44 The Department shall perform the following duties under the direction and control of its Executive Director:

45 1. Provide such technical assistance as ~~may at the discretion of the~~ Executive Director ~~be requisite~~ deems
46 necessary for the proper implementation and maintenance of programs afforded under the Act.

47 2. Monitor performance of those entities ~~which~~ that by the terms of the agreement specified in Section 103 (b) (1) of
48 the Act were or may hereafter be selected to administer the job training plans developed and approved by the Governor in
49 accordance with the Act and monitor or require monitoring of contractors including those of ~~the said~~ such entities.

50 As used ~~herein~~ in this section, the term "entities" means any private industry council or other entity or entities
51 performing the functions of administrative entity and grant recipient, either or both, as these terms are used in the Act.

1 3. Audit or cause audits to be made of the entities specified in subdivision 2 of this section and require auditing of
2 their contractors in accordance with the requirements of the Act and applicable regulations and as sound administrati
3 require at the discretion of the Department.

4 4. Develop and implement such systems or procedures as may be required or permitted by the Act or such as
5 otherwise may be desirable or convenient for the efficient, fiscally sound and successful administration of the Act in the
6 Commonwealth, including, without limitation, performance standards and reporting.

7 5. Perform such other ~~or further~~ duties as the Governor may prescribe to assist him in carrying out his duties as
8 prescribed by the Act.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 2-1-700 2.2-2004.~~ Approval of cost not to bar subsequent claim for same.

11 The approval by any entity specified by subdivision 2 of § ~~2-1-707 2.2-2003~~ or by the Department of a cost or
12 expenditure of funds questioned upon audit shall not operate to bar any claim for reimbursement ~~of same~~ by such entity or
13 the Commonwealth in the event that the United States Department of Labor subsequently disallows such cost or expenditure.

14 **DRAFTING NOTE:** Technical corrections only.

15 ~~§ 2-1-740 2.2-2005.~~ Program services delivery by state agencies.

16 A. The Governor may provide for delivery or coordination of delivery of specific program services authorized by the
17 Act by any department, agency, board or commission of the state government whenever he finds that such action is (i)
18 required by the Act or by regulations of the United States Department of Labor ~~or is;~~ (ii) otherwise necessary or convenient for
19 coordination of services provided by the Commonwealth with programs afforded pursuant to the Act, for the efficient delivery
20 of services; ~~or for such other reason as may to him warrant such action~~ (iii) otherwise warranted in the discretion of the
21 Governor.

22 B. ~~If, in acting pursuant to the foregoing authority,~~ the Governor finds that more than one department, agency, board
23 or commission is performing the same or similar tasks or functions, ~~then~~ he may consolidate the tasks or functions under one
24 such department, agency, board or commission. ~~He shall not, in so doing, remove~~ However, a task or function shall not be
25 removed from a department, agency, board or commission if ~~the same be~~ it is expressly assigned ~~thereto~~ to it by law.

26 **DRAFTING NOTE:** Technical corrections only.

27 ~~§ 2-1-710.1. Economic and Employment Improvement Program for Disadvantaged Persons created;~~ n
28 ~~developed by Department in coordination with the State Board for Community Colleges.~~

29 A. ~~With such funds as may be appropriated for this purpose and from such gifts, donations, grants, bequests, and~~
30 ~~other funds as may be received on its behalf, there is hereby created the Economic and Employment Improvement Program~~
31 ~~for Disadvantaged Persons to improve the employability of and provide assistance to disadvantaged persons through~~
32 ~~education and skills training.~~

33 B. ~~The Program shall be developed by the Department in coordination with the State Board for Community~~
34 ~~Colleges. The Program shall comply with state laws and regulations governing adult education and vocational and technical~~
35 ~~education programs, and be consistent with existing state apprenticeships and workforce training programs.~~

36 **DRAFTING NOTE:** Technical corrections. This section was repealed by Chapter 483 of the 2000 Acts of Assembly of the
37 General Assembly.

38 ~~§ 2-1-710.2. Economic and Employment Improvement Program for Disadvantaged Persons awards administered by~~
39 ~~Department; promulgation of regulations.~~

40 ~~The Department shall promulgate regulations for the implementation of the program and, in accordance with the~~
41 ~~recommendations of the Grant Awards Committee, designate projects to receive grants awarded pursuant to § 2-1-710.3.~~

42 **DRAFTING NOTE:** Technical corrections. This section was repealed by Chapter 483 of the 2000 Acts of Assembly of the
43 General Assembly.

44 ~~§ 2-1-710.3. Economic and Employment Improvement Program for Disadvantaged Persons Grant Awards~~
45 ~~Committee established; eligible projects; criteria for award of grants.~~

46 A. ~~There is hereby established the Economic and Employment Improvement Program for Disadvantaged Persons~~
47 ~~Grant Awards Committee, which shall be composed of fifteen members designated by the relevant state agency heads as~~
48 ~~follows: three persons of the Governor's Employment and Training Department ("GETD"); two staff persons of the State~~
49 ~~Board for Community Colleges, of whom one shall have expertise in grant writing, review, and awards, and one shall have~~
50 ~~expertise in the administration and delivery of vocational and technical education programs and services in the~~
51 ~~Commonwealth; two representatives of the Private Industry Councils ("PICs"), of whom one shall represent small businesses;~~
52 ~~two staff persons of the Virginia Employment Commission ("VEC"), of whom one shall have expertise in economic tr~~ rd

1 analysis, and one shall have expertise in employment statistics, needs, and projections; two staff persons of the Department
2 of Education, who shall have expertise in adult education, and vocational and technical education programs administered by
3 and offered through the public schools; two staff persons of the Department of Labor and Industry, who shall have expertise
4 in apprenticeship programs and labor force needs and training; and two representatives of four-year institutions of higher
5 education, of whom one shall have expertise in successfully delivering education and training programs and services to
6 persons who are disproportionately represented in minimum-wage jobs and occupations requiring minimum education,
7 training, and skills, and who have been traditionally underrepresented in higher education.

8 Upon the appropriation of funds for this purpose and from such gifts, donations, grants, bequests, and other funds as
9 may be received by the Department on behalf of the Program, the Committee shall issue a request for proposals for grant
10 projects designed to improve the employability of and provide assistance to disadvantaged persons through education and
11 skills training. The Committee shall review each grant application, make grant awards in accordance with the eligibility criteria
12 established in this section, and evaluate the effectiveness of the educational and skills training services delivered by funded
13 projects. The Committee shall report the results of its evaluation, annually beginning July 1, 2000, to the governing boards of
14 agencies represented on the Committee, the Governor and the General Assembly.

15 B. On and after July 1, 1998, the Program shall consist of no more than ten grant projects located in regions
16 throughout the Commonwealth to provide equal geographical distribution of such projects. Priority for awarding such grants
17 shall be given to projects designed to serve persons (i) historically underrepresented in Virginia institutions of higher
18 education, and in management and administrative levels in the business community; (ii) located in counties, cities and towns
19 with high local stress indicators and in economically depressed regions of the Commonwealth; (iii) disproportionately
20 represented in the workforce in minimum wage jobs and occupations requiring minimum education, training, and skills; or (iv)
21 displaced by technological advances in industry; or (v) any combination thereof. Grants for all projects shall be awarded on a
22 competitive basis to applicants responding to requests for proposals. The first grants shall be awarded by May 1, 1998.

23 C. Eligible projects shall (i) satisfy the criteria for receiving awards pursuant to subsection B of this section; (ii)
24 through education and skills training, provide assistance to and improve the employability of populations experiencing high
25 rates of unemployment or underemployment; (iii) provide training and education reflective of current and projected workforce
26 needs in the Commonwealth; (iv) coordinate and provide delivery of services, such as community business outreach
27 programs through the schools or departments of business, or community outreach programs at two-year and four-year public
28 and private institutions of higher education; (v) include a component to evaluate the effectiveness of the delivery of
29 educational and skills training services; and (vi) encourage mentoring partnerships between corporations and financially
30 stressed businesses. Grant recipients may work collaboratively, upon request, to provide approved service delivery.

31 **DRAFTING NOTE:** Technical corrections. This section was repealed by Chapter 483 of the 2000 Acts of Assembly of the
32 General Assembly.

33 ~~§-2.1-714 2.2-2006.~~ Reports to the General Assembly.

34 The Executive Director shall conduct investigations and report such information ~~as may to~~ aid the Governor in
35 assessing performance in achieving the goals of the Act in the Commonwealth and such other related matters or issues as
36 the Governor may direct. The Governor shall, at least biennially, cause a report to be made and filed with such ~~committee or~~
37 committees of each house of the General Assembly as he deems appropriate. ~~Such~~ The report shall include a
38 recommendation with regard to the continued participation of the Commonwealth in the programs of the Act.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§-2.1-742 2.2-2007.~~ Participation by political subdivisions and governmental entities.

41 Notwithstanding any charter provision, political subdivisions may participate in the programs afforded pursuant to the
42 Act as administrative entities or grant recipients as these terms are used in Section 103 of the Act and may provide program
43 services to eligible participants. Political subdivisions may make funds and governmental services available in furtherance of
44 the job training plans in effect within the service delivery areas of the Commonwealth. Regulations of the Department
45 affecting participating political subdivisions ~~participating as above said~~ shall not be subject to the provisions of ~~subsections B~~
46 ~~and C~~ subsection B of ~~§-9-6-14:3(4000).~~

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§-2.1-743 2.2-2008.~~ Chapter to be liberally construed.

49 The Act shall be implemented and administered in the Commonwealth in ~~such a~~ fashion as will best meet the goals
50 of the Act, the needs of eligible participants and prevent program abuse and misexpenditure of funds made available by the
51 United States. The provisions of this chapter shall be liberally construed to this end.

52 **DRAFTING NOTE:** Technical corrections only.

1 SUBTITLE I.

2 PART D.

3 STATE AUTHORITIES, BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES.

4 CHAPTER 21.

5 GENERAL PROVISIONS.

6 §-9-6-25-2.2-2100. Classification of executive branch boards, commissions and councils.

7 A. Effective July 1, 1986, every collegial body established by law or executive order within the executive branch of
8 state government shall be classified according to its level of authority as follows:

9 "Advisory" - A board, commission or council shall be classified as advisory when its purpose is to provide advice and
10 comment to an executive branch agency or office. An advisory board, commission or council serves as a formal liaison
11 between the agency or office and the public to ensure that the agency or office understands public concerns and that the
12 activities of the agency or office are communicated to the public. An advisory board, commission or council does not serve a
13 regulatory or rule-making purpose. It may participate in the development of public policy by providing comment and advice.

14 "Policy" - A board, commission or council shall be classified as policy if it is specifically charged by statute to
15 promulgate public policies or regulations. It may also be charged with adjudicating violations of those policies or regulations.
16 Specific functions of the board, commission or council may include, but are not limited to, rate setting, distributing federal
17 funds, and adjudicating regulatory or statutory violations, but each power shall be enumerated by law. Policy boards,
18 commissions or councils are not responsible for supervising agencies or employing personnel. They may review and
19 comment on agency budget requests.

20 "Supervisory" - A board, commission, or council shall be classified as supervisory if it is responsible for agency
21 operations including approval of requests for appropriations. A supervisory board, commission, or council appoints the
22 agency director and ensures that the agency director complies with all board and statutory directives. The agency director is
23 subordinate to the board. Notwithstanding the foregoing, the Board of Education shall be considered a supervisory board.

24 B. Each executive branch board, commission or council shall be assigned only one of the above classifications. The
25 classification for boards and councils ~~which-that~~ are created by law shall be designated by the enabling legislation. The
26 classification for commissions ~~which-that~~ are created by executive order shall be designated by the executive order.

27 **DRAFTING NOTE:** Technical corrections only.

28 §-9-6-23-2.2-2101. Prohibition against service by legislators on boards, commissions, and councils within the
29 executive branch; exceptions.

30 Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the
31 executive branch of state government ~~which-who~~ are responsible for administering programs established by the General
32 Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or
33 commemorative activities. If any law directs the appointment of any member of the General Assembly to a board,
34 commission, or council in the executive branch of state government ~~which-that~~ is responsible for administering programs
35 established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person
36 from the Commonwealth at large to fill such a position.

37 The provisions of this section shall not apply, ~~however,~~ to members of the Board for Branch Pilots, who shall be
38 appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as provided for
39 in ~~§-2-1-744-2.2-2421~~; to members of the Council on Indians, who shall be appointed as provided for in ~~§-9-138-4-2.2-2628~~; to
40 members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for
41 in § 23-231.3; to members of the Maternal and Child Health Council, who shall be appointed as provided for in ~~§-9-348-2.2-~~
42 ~~2642~~; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in ~~§-2-1-750-2.2-~~
43 ~~5204~~; to members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be appointed
44 as provided in ~~§-9-326-2.2-2600~~; to members of the Virginia Correctional Enterprises Advisory Board, who shall be appointed
45 as provided for in § 53.1-45.3; to members appointed to the Virginia Veterans Cemetery Board pursuant to ~~§-2-1-730-2.2-~~
46 ~~2438~~; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to
47 members of the Commonwealth Competition Commission, who shall be appointed as provided for in ~~§-9-343-2.2-2621~~; to
48 members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in ~~§-2-1-~~
49 ~~563-41-2.2-2423~~; to members of the Advisory Commission on the Virginia Schools for the Deaf and the Blind, who shall be
50 appointed as provided for in § 22.1-346.1; to members of the Council on Coordinating Prevention, who shall be appointed as
51 provided for in ~~§-9-268-2.2-2658~~; to members of the Substance Abuse Services Council, who shall be appointed as provided
52 for in § 37.1-207; or to members of the Criminal Justice Services Board, who shall be appointed as provided in ~~§-9-168-9.1-~~
53 ~~108~~; or to members of the Virginia Workforce Council, who shall be appointed as provided for in ~~§-9-329-4-2.2-2669~~.

54 **DRAFTING NOTE:** Technical corrections only.

§-9-6,24 2.2-2102. "Citizen member" appointments to executive branch boards and commissions.

Positions on boards and commissions designated for "citizen members," "consumer members," and "representatives of the public" are intended to ensure that the composition of a particular board or commission reflects citizen as well as professional interests. Except as otherwise provided by law, the Governor shall, when making an appointment to an executive branch board or commission specifically designated for a "citizen member," "consumer member," or "representative of the public," appoint a person who (i) is not by training or experience a practitioner in the subject area of concern to the board or commission, (ii) is not the spouse, parent, child or sibling of such a practitioner, and (iii) has no direct or indirect financial interest, except as a consumer, in the subject area of concern to the board or commission.

DRAFTING NOTE: Technical corrections only.

§ 2.2-2103. Cooperation of other agencies with authorities, boards, commissions, councils, and other collegial bodies.

Upon request, all agencies and political subdivisions of the Commonwealth shall assist any authority, board, commission, council or other collegial body established in this title in carrying out the respective duties for which each was created.

DRAFTING NOTE: Technical corrections. This proposed section represents the consolidation of the various repetitive sections dealing with the cooperation of state agencies with commissions and boards, etc.

§ 2.2-2104. Compensation and expenses.

Compensation and expenses to members of state boards, commissions, councils and other similar bodies shall be paid in accordance with Chapter 28 (§ 2.2-2800 et seq.) of this title.

DRAFTING NOTE: This section has been added as a cross reference to proposed chapter 28 which consists of existing § 2.1-20.2, 2.1-20.3, and 2.1-20.5 through 2.1-20.12.

~~§-9-43~~ 2.2-2105. Investigation of management of institutions or conduct of officers or employees.

Whenever any board of visitors to any of the institutions of ~~the~~ the Commonwealth deem it necessary or expedient to investigate the management of their institution or the conduct of any of its officers or employees, such board, or a committee of its members selected by the board, shall have such power and authority to send for persons and papers or to order the attendance of witnesses and compel their attendance as is now conferred upon a committee appointed by the General Assembly or either branch thereof by § 30-10. The oath to be taken by any witness examined by such board or committee may be administered by the president or the presiding officer of the board, chairman of its committee, or the clerk or secretary of the board or committee. All expenses incurred in summoning or in the attendance of such witness shall be paid out of the funds of the institution whose boards made or ordered the investigation.

DRAFTING NOTE: Technical corrections only.

~~§-9-44~~ 2.2-2106. Expenses of certain boards; appearances before General Assembly.

A. The board of directors of the several state hospitals and the boards of directors of the various institutions of learning receiving aid from the Commonwealth shall receive their actual, itemized expenses incurred in the discharge of their duties in attending the meetings of the boards or committees.

B. No officer of any university, college, school, hospital, or other institution or board maintained in part or in whole by the Commonwealth shall spend or appropriate any money for the purpose of sending any member of the board or officials of such institution or other person to appear before the General Assembly, or any committee thereof, for the purpose of advocating in any way any appropriation for any institution supported in whole or in part by the Commonwealth. However, when any committee of the General Assembly desires information in regard to the needs of any state institution it may by proper resolution so determine, and request that any institution or board thereof send one or more competent persons to give the information desired, and the expense thereof may be paid out of the funds appropriated by the Commonwealth for the support of that institution.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 9-14 and subsection B is § 9-15. The term "colony" has been deleted as obsolete.

~~§-9-15. Expenses of representatives appearing before General Assembly.~~

~~The officers of no university, college, school, hospital, colony or other institution or board maintained in part or in whole by the Commonwealth shall spend or appropriate any money or moneys for the purpose of sending any member of the board or officials of such institution or other person to appear before the General Assembly, or any committee thereof, for the purpose of advocating in any way any appropriation for any institution supported in whole or in part by the Commonwealth; provided, that when any committee of the General Assembly desires information in regard to the needs of any state institution it may by proper resolution so determine, and request that any institution or board thereof send one or more competent~~

1 ~~persons to give the information desired, and the expense thereof may be paid out of the funds appropriated by the~~
2 ~~Commonwealth for the support of that institution.~~

3 **DRAFTING NOTE:** This section now appears as subsection B in proposed § 2.2-2106.

4 CHAPTER 22.

5 AUTHORITIES.

6 Article 1.

7 General Provisions.

8 § 2.2-2200. Definitions.

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

10 "Authority" means the respective political subdivisions of the Commonwealth created in this subpart.

11 "Board" means the respective boards of directors for the authorities created in this subpart.

12 "Bonds" means any bonds, refunding bonds, notes, debentures, interim certificates, or any bond, grant, revenue
13 anticipation notes or any other evidences of indebtedness or obligation of an authority, whether in temporary or definitive form
14 and whether the interest thereon is exempt from federal income taxation.

15 "Commonwealth" or "state" means the Commonwealth of Virginia or any of its agencies or departments.

16 "Federal agency " means the United States; the President of the United States; and any department, corporation,
17 agency, or instrumentality heretofore or hereafter created, designated, or established by the United States.

18 "Person" means the same as that term is defined in § 1-13.19 of Title 1.

19 **DRAFTING NOTE:** This proposed section represents the consolidation of the various repetitive definitions found in this
20 chapter. As noted in this section, the above definitions apply to the authorities created herein. The definition of the
21 Commonwealth was included on the recommendation of Department of the Treasury.

22 Article 2.

23 Commercial Space Flight Authority.

24 § ~~9-266.4~~ 2.2-2201. Short title; definitions.

25 A. This ~~chapter~~ article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act.

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

27 "Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or
28 the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

29 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of existing § 9-266.1 as subsection A and §
30 9-266.2 as subsection B. The definitions of "Authority," "Board," "Bonds," "Federal agency," and "Person" from § 9-266.2
31 have been consolidated in a single definitional section located at the beginning of this Subpart 1 as § 2.2-2200.

32 ~~§ 9-266.2. Definitions.~~

33 ~~The following terms, whenever used or referred to in this chapter, have the following meanings, except where the~~
34 ~~context clearly indicates otherwise:~~

35 ~~"Authority" means the political subdivision of the Commonwealth created by this chapter.~~

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

37 ~~"Bonds" means the notes, bonds, certificates and other evidences of indebtedness or obligations of the Authority.~~

38 ~~"Federal agency" means the United States; the President of the United States; and any department, corporation,~~
39 ~~agency, or instrumentality heretofore or hereafter created, designated, or established by the United States.~~

40 ~~"Person" means natural persons, firms, foundations, associations, corporations, business trusts, partnerships, joint~~
41 ~~ventures and public bodies, including but not limited to the Commonwealth of Virginia; any state; and any agency,~~
42 ~~department, institution, political subdivision or instrumentality of the Commonwealth or any state.~~

43 ~~"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or~~
44 ~~the provision for or funding of any activity that will further the purposes described in § 9-266.3 of this chapter.~~

45 **DRAFTING NOTE:** Technical corrections. This section has been merged with proposed § 2.2-2201 as subsection B, except
46 that the definitions of "Authority," "Board," "Bonds," "Federal agency," and "Person" from this section have been consolidated
47 in a single definitional section located at the beginning of this Subpart 1 as § 2.2-2200.

48 ~~§ 9-266.3 2.2-2202. Declaration of public purpose; Authority created.~~

1 A. The General Assembly has determined that there exists in the Commonwealth a need to (i) disseminate
2 knowledge pertaining to scientific and technological research and development among public and private entities, including
3 but not limited to knowledge in the area of commercial space flight, and (ii) promote industrial and economic development. In
4 order to facilitate and coordinate scientific and technological research and development and to promote the industrial and
5 economic development of the Commonwealth, which purposes are declared to be public purposes.

6 B. To achieve the objectives of subsection A, there is created a political subdivision of the Commonwealth to be
7 known as the "Virginia Commercial Space Flight Authority" (the "Authority"). The Authority's exercise of powers conferred by
8 this chapter/article shall be deemed to be the performance of an essential governmental function and matters of public
9 necessity for which public moneys may be spent and private property acquired.

10 **DRAFTING NOTE:** Technical corrections only.

11 ~~§ 9-266.4~~ 2.2-2203. Board of directors; members and officers; Executive Director.

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

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

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

37 The ~~board~~ Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the ~~board~~
38 Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon
39 him ~~as may be delegated to him by the board~~ Board. The Executive Director and employees of the Authority shall be
40 compensated in the manner provided by the ~~board~~ Board and shall not be subject to the provisions of ~~Chapter 10 (§ 2.1-110~~
41 ~~et seq.) of Title 2.1 of the Code of Virginia~~ the Virginia Personnel Act (§ 2.2-2900 et seq.) of this title.

42 **DRAFTING NOTE:** Technical corrections only.

43 ~~§ 9-266.5~~ 2.2-2204. Powers of the Authority.

44 The Authority is ~~hereby granted and shall have and may exercise~~ all powers necessary or convenient for the
45 carrying out of its statutory purposes, including, ~~but without limiting the generality of the foregoing not limited to~~, the power to:

- 46 1. Sue and be sued, implead and be impleaded, complain and defend in all courts;
- 47 2. Adopt, use, and alter at will a common seal;
- 48 3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by
49 purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property,
50 real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such
51 terms and conditions as may be determined by the ~~board of the Authority~~ Board;
- 52 4. Plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate
53 projects;
- 54 5. ~~Make Adopt~~ Adopt bylaws for the management and regulation of its affairs;
- 55 6. Fix, alter, charge and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products
56 of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the

1 expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing,
2 maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in §
3 ~~9-266.3~~ 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such
4 purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project or
5 ~~project~~ and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such
6 obligations;

7 7. Borrow money, make and issue bonds including bonds as the Authority may, ~~from time to time~~, determine to issue
8 for the purpose of accomplishing the purposes set forth in § ~~9-266.32~~ 2-2202 or for refunding bonds previously issued by the
9 Authority, whether ~~or not~~ such outstanding bonds have matured or are then subject to redemption, or any combination of such
10 purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its
11 revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and
12 interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any
13 such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security
14 for said bonds and the rights of holders thereof;

15 8. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the
16 furtherance of its purposes and the execution of its powers under this ~~chapter~~ article, including interstate compacts and
17 agreements with any person or federal agency;

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

21 10. Receive and accept from any federal or private agency, foundation, corporation, association or person grants,
22 donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the
23 Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid
24 or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which
25 such grants and contributions may be made;

26 11. Render advice and assistance, and to provide services, to institutions of higher education including, but not
27 limited to, Old Dominion University, and to other persons providing services or facilities for scientific and technological
28 research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such
29 education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

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

37 13. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of
38 the obligations of the Authority;

39 14. Appoint an industry advisory board to advise the Authority on issues related to the performance of its duties, the
40 furtherance of its purposes and the execution of its powers under this ~~chapter~~ article. The Authority shall have full discretion
41 in determining the number and qualifications of members it appoints to the industry advisory board, and whether such
42 members shall be compensated from the funds made available to the Authority; and

43 15. Do all acts and things necessary or convenient to carry out the powers granted to it by ~~this chapter or any other~~
44 acts law.

45 **DRAFTING NOTE:** Technical corrections only.

46 ~~§ 9-266.6~~ 2.2-2205. Form, terms, execution and sale of bonds; use of proceeds; interim receipts or temporary bonds;
47 lost or destroyed bonds; faith and credit of state and political subdivisions not pledged; expenses.

48 The bonds of each issue shall be dated, shall bear interest at such ~~rate or rates~~ as shall be ~~are~~ fixed by the
49 Authority, or as may be determined in such manner as the Authority may provide, including the determination by agents
50 designated by the Authority under guidelines established by the Authority, shall mature at such time ~~or times~~ not exceeding
51 forty years from their date ~~or dates~~, as may be determined by the Authority, and may be made redeemable before maturity, at
52 the option of the Authority, at such price ~~or prices~~ and under such terms and conditions as may be fixed by the Authority prior
53 to the issuance of the bonds. The Authority shall determine the form of bonds and their ~~the~~ manner of execution ~~of the bonds~~,
54 and shall fix the denomination ~~or denominations~~ of the bonds and the place ~~or places~~ of payment of principal and interest,
55 which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the chairman
56 or vice chairman of the Authority or, if so authorized by the Authority, shall bear his facsimile signature, and the official seal of
57 the Authority, or, if so authorized by the Authority, a facsimile thereof shall be impressed or imprinted thereon and attested by

the secretary or any assistant secretary of the Authority, or, if so authorized by the Authority, with the facsimile signature of such secretary or assistant secretary. Any coupons attached to bonds issued by the Authority shall bear the signature of the chairman or vice chairman of the Authority or a facsimile thereof. In case any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or coupons ~~shall cease~~ ceases to be ~~such an officer~~ before the delivery of ~~such the bonds, such his~~ signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any bonds may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bonds shall be the proper officers to sign such bonds although at the date of such bonds such persons may not have been such officers. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payment of principal of, and premium on, if any, and interest on such bonds. The Authority may contract for the services of one or more banks, trust companies, financial institutions or other entities or persons, within or without the Commonwealth for the authentication, registration, transfer, exchange and payment of the bonds, or may provide such services itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine will best effect the purposes of this ~~chapter~~ article.

The proceeds of the bonds of each issue shall be used solely for the purposes, and in furtherance of the powers, of the Authority as may be provided in the resolution authorizing the issuance of such bonds or in ~~the a trust agreement hereinafter mentioned authorized by § 2.2-2206~~ securing the same bonds.

In addition to the above powers, the Authority ~~shall have the authority to~~ may issue interim receipts or temporary bonds as provided in ~~§ 15.1-227.18 of the Code of Virginia 15.2-2616~~ and to execute and deliver new bonds in place of bonds mutilated, lost or destroyed, as provided in ~~§ 15.1-227.23 of the Code of Virginia 15.2-2621~~.

No obligation of the Authority shall be deemed to constitute a debt, or pledge of the faith and credit, of the Commonwealth or of any political subdivision thereof, but shall be payable solely from the revenues and other funds of the Authority pledged thereto. All such obligations shall contain on the face thereof a statement to the effect that the Commonwealth, any political subdivision thereof and the Authority shall not be obligated to pay the same or the interest thereon except from revenues and other funds of the Authority pledged thereto, and that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligations.

All expenses incurred in carrying out the provisions of the act shall be payable solely from funds provided under the provisions of this act, and no liability shall be incurred by the Authority ~~hereunder~~ beyond the extent to which moneys ~~shall~~ have been provided under the provisions of this ~~chapter~~ article.

DRAFTING NOTE: Technical corrections only.

~~§ 9-266.7~~ 2.2-2206. Trust indenture or agreement securing bonds.

~~At in~~ the discretion of the Authority, any bonds issued under the provisions of this ~~chapter~~ article may be secured by a trust indenture or agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. ~~Such The~~ trust indenture or agreement or the resolution providing for the issuance of ~~such the bonds may (i) pledge or assign the revenues to be received and provide for the mortgage of any project or property or any part thereof. Such trust indenture or agreement or resolution providing for the issuance of such bonds may and (ii) contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Authority or any trustees under any trust indenture or agreement of any project, or part thereof, upon any default under the lease or sale of such project, setting forth the duties of the Authority in relation to the acquisition of property and the planning, development, acquisition, construction, rehabilitation, establishment, improvement, extension, enlargement, maintenance, repair, operation and insurance of the project or projects in connection with which such the bonds shall have been authorized; the amounts of rates, rents, fees and other charges to be charged; the collection of such rates, rents, fees and other charges; the custody, safeguarding and application of all moneys; and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state which that may act as depository of the proceeds of bonds or of revenues to furnish such the indemnifying bonds or to pledge such the securities as may be required by the Authority. Any such trust indenture or agreement or resolution may set forth the rights of action by bondholders. In addition to the foregoing, any such trust indenture or agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders including, without limitation, provisions for the assignment to a corporate trustee or escrow agent of any rights of the Authority in any project owned by, or leases or sales of any projects made by, the Authority. All expenses incurred in carrying out the provisions of such the trust indenture or agreement or resolution or other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the cost of the operation of the project or projects.~~

1 **DRAFTING NOTE:** Technical corrections only.

2 ~~§ 0-266.8~~ 2.2-2207. Moneys received deemed trust funds.

3 All moneys received pursuant to the authority of this ~~chapter article~~, whether as proceeds from the sale of bonds or
4 as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this ~~chapter article~~. The resolution
5 authorizing the bonds of any issue or the trust indenture or agreement or resolution securing such bonds shall provide that
6 any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as a trustee of
7 such moneys and shall hold and apply the same for the purposes hereof, subject to ~~such the~~ regulations as this ~~chapter~~
8 ~~article~~ and ~~such the~~ trust indenture or agreement or resolution may provide.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 0-266.9~~ 2.2-2208. Proceedings by bondholder or trustee to enforce rights.

11 Any holder of bonds issued under the provisions of this ~~chapter article~~ or any of the coupons appertaining thereto,
12 and the trustee under any trust indenture or agreement or resolution, except to the extent the rights ~~herein~~ given may be
13 restricted by ~~such the~~ trust indenture or agreement or resolution authorizing the issuance of ~~such the~~ bonds, may either at law
14 or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the
15 Commonwealth or granted hereunder or under ~~such the~~ trust indenture or agreement or resolution, and may enforce and
16 compel the performance of all duties required by this ~~chapter article~~ or by ~~such the~~ trust indenture or agreement or resolution
17 to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, fees,
18 and other charges.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§ 0-266.40~~ 2.2-2209. Bonds made securities for investment and deposit.

21 Bonds issued by the Authority under the provisions of this ~~chapter article~~ are ~~hereby~~ made securities in which all
22 public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust
23 companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may
24 properly and legally invest funds, including capital in their control or belonging to them. Such bonds ~~are hereby made~~ shall be
25 securities ~~which that~~ may properly and legally be deposited with and received by any state or municipal officer or any agency
26 or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the
27 Commonwealth is now or may hereafter be authorized by law.

28 **DRAFTING NOTE:** Technical corrections only.

29 ~~§ 0-266.44~~ 2.2-2210. Refunding bonds; bonds for refunding and for costs of additional projects.

30 The Authority is ~~hereby authorized to may~~ provide for the issuance of refunding bonds of the Authority for the
31 purpose of refunding any bonds then outstanding that ~~shall~~ have been issued under the provisions of this ~~chapter article~~,
32 including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of
33 ~~such~~ bonds. The issuance of ~~such the~~ bonds, the maturities and other details thereof, the rights of the holders thereof, and
34 the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this ~~chapter~~
35 ~~article~~ insofar as ~~the same they~~ may be applicable.

36 **DRAFTING NOTE:** Technical corrections only.

37 ~~§ 0-266.42~~ 2.2-2211. Grants or loans of public or private funds.

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

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 0-266.46~~ 2.2-2212. Moneys of Authority.

46 All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such
47 moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more
48 special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the
49 Authority. The moneys in such accounts shall be paid out on the warrant or other order of such ~~person or persons~~ as the
50 Authority may authorize to execute such warrants or orders.

51 **DRAFTING NOTE:** Technical corrections only.

1 | ~~§ 9-266.17~~ 2.2-2213. Forms of accounts and records; audit; annual report.

2 | The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source
3 | derived, shall be in ~~such a form as prescribed by the Auditor of Public Accounts prescribes~~. The Auditor of Public Accounts,
4 | ~~and or~~ his legally authorized representatives, shall annually examine the accounts and books of the Authority. Such accounts
5 | shall correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises.

6 | The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each
7 | year. Such report shall contain the audited annual financial statements of the Authority for the year ending the preceding June
8 | 30. The annual report shall be distributed in accordance with the provisions of ~~§ 2-4-467~~ 2.2-1127.

9 | **DRAFTING NOTE:** Technical corrections only.

10 | ~~§ 9-266.18~~ 2.2-2214. Exemption from taxes or assessments.

11 | The exercise of the powers granted by this ~~chapter will~~ article shall be in all respects for the benefit of the people of
12 | the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living
13 | conditions, and as the operation and maintenance of the projects by the Authority and the undertaking of activities in the
14 | furtherance of the purposes of the Authority ~~will constitute~~ constitutes the performance of the essential governmental
15 | functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or
16 | used by the Authority under the provisions of this ~~chapter article~~ or upon the income therefrom, including sales and use taxes
17 | on the tangible personal property used in the operations of the Authority. The exemption ~~herely granted in this section~~ shall
18 | not be construed to extend to persons conducting on the premises of the facility businesses for which local or state taxes
19 | would otherwise be required.

20 | Any bonds or refunding bonds issued under the provisions of this ~~chapter article~~ and any transfer of such bonds
21 | shall at all times be free from state and local taxation. The interest on the bonds and any refunding bonds or bond anticipation
22 | notes shall at all times be exempt from taxation by the Commonwealth and by any of its political subdivision thereof
23 | subdivisions.

24 | **DRAFTING NOTE:** Technical corrections only.

25 | ~~§ 9-266.15~~ 2.2-2215. Exemption of Authority from personnel and procurement procedures.

26 | The provisions of ~~Chapter 10 (§ 2-1-110 et seq.) of Title 21 the Virginia Personnel Act (§ 2.2-2900 et seq.) and~~
27 | ~~Chapter 7 the Virginia Public Procurement Act (§ 11-35-2.2-4300 et seq.) of Title 11 of the Code of Virginia this title~~ shall not
28 | apply to the Authority in the exercise of any power conferred under this ~~chapter article~~.

29 | **DRAFTING NOTE:** Technical corrections only.

30 | ~~§ 9-266.10. Title to property.~~

31 | ~~The Authority may acquire title to property in its own name.~~

32 | **DRAFTING NOTE:** This section has been deleted as duplicative of subdivision 3 of existing § 9-266.5 (proposed § 2.2-2205)
33 | supra.

34 | ~~§ 9-266.13~~ 2.2-2216. Appropriations by any government.

35 | Any government may make appropriations for the acquisition, construction, improvement, maintenance or operation
36 | of any project acquired, constructed, improved, maintained or operated by the Authority.

37 | **DRAFTING NOTE:** Technical corrections only.

38 | ~~§ 9-266.14~~ 2.2-2217. Conveyance, lease or transfer of property by a city or county to the Authority.

39 | Any city or county within the Commonwealth in order to provide for the construction, reconstruction, improvement,
40 | repair or management of any project, or in order to accomplish any of the purposes of this ~~chapter article~~ may, with or without
41 | consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to the Authority any real, personal or
42 | mixed property located within such city or county.

43 | **DRAFTING NOTE:** Technical corrections only.

44 | Article 3.

45 | Innovative Technology Authority.

46 | ~~§ 9-250~~ 2.2-2218. ~~Title of chapter~~ Short title; definitions.

47 | A. This ~~chapter article~~ may be cited as the "Innovative Technology Authority Act of 1984."

48 | B. As used in this article, unless the context requires a different meaning:

1 "Project" shall mean the construction, improvement, furnishing, maintenance, acquisition or operation of any facility
2 or the provision for or funding of any activity that will further the purposes described in § 2.2-2219.

3 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections, § 9-250 is
4 subsection A and § 9-251 is subsection B. The definitions of "Authority," "Board," "Bonds," "Federal agency," and "Person"
5 from § 9-251 have been consolidated in a single definitional section located at the beginning of this Subpart 1 as § 2.2-2200.

6 ~~§ 9-251. Definitions.~~

7 ~~The following terms, whenever used or referred to in this chapter, shall have the following meanings, except in those~~
8 ~~instances where the context clearly indicates otherwise:~~

9 ~~"Authority" shall mean the political subdivision of the Commonwealth created by this chapter.~~

10 ~~"Board" shall mean the board of directors of the Authority.~~

11 ~~"Bonds" shall mean and include the notes, bonds, certificates and other evidences of indebtedness or obligations of~~
12 ~~the Authority.~~

13 ~~"Federal agency" shall mean and include the United States of America, the President of the United States of~~
14 ~~America, and any department, corporation, agency, or instrumentality heretofore or hereafter created, designated, or~~
15 ~~established by the United States of America.~~

16 ~~"Person" shall mean and include natural persons, firms, foundations, associations, corporations, business trusts,~~
17 ~~partnerships, joint ventures and public bodies, including, but not limited to, the Commonwealth of Virginia or any state and~~
18 ~~any agency, department, institution, political subdivision or instrumentality of the Commonwealth or any state.~~

19 ~~"Project" shall mean the construction, improvement, furnishing, maintenance, acquisition or operation of any facility~~
20 ~~or the provision for or funding of any activity that will further the purposes described in § 9-252 of this chapter.~~

21 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2218 supra, except
22 that the definitions of "Authority," "Board," "Bonds," "Federal agency," and "Person" from this section have been consolidated
23 in a single definitional section located at the beginning of this Subpart 1 as § 2.2-2200.

24 ~~§ 9-252 2.2-2219. Declaration of public purpose; Authority created.~~

25 A. It is hereby found and determined by the General Assembly that there exists in the Commonwealth of Virginia a
26 need to (i) promote the economic development of the Commonwealth by attracting and retaining high technology jobs and
27 businesses in Virginia; (ii) increase industry competitiveness by supporting the application of innovative technologies that
28 improve productivity and efficiency; (iii) mobilize support for high technology industries to commercialize new products and
29 processes, including organizing assistance for small business and supporting select industry sectors and regional high
30 technology efforts; (iv) enhance and expand the scientific and technological research and development capabilities of the
31 institutions of higher education in the Commonwealth and coordinate such capabilities with the scientific and technological
32 research and development activities and requirements of the public and private sectors, including transferring technological
33 advances to the private sector; (v) expand knowledge pertaining to scientific and technological research and development
34 among public and private entities; (vi) attract research and development (R&D) facilities and contracts from the federal
35 government and private sector, including coordinating efforts to identify and compete for large federal and private sector R&D
36 facilities, tracking federal technology initiatives and recommending state actions, and developing a statewide strategy to
37 compete for large R&D contracts; and (vii) facilitate and coordinate the marketing, organization, utilization and development of
38 scientific and technological research and development in the Commonwealth.

39 B. To achieve the objectives of subsection A of this section, there is hereby created and constituted a political
40 subdivision of the Commonwealth to be known as "The Innovative Technology Authority." The Authority's exercise by the
41 Authority of the powers conferred by this chapter article shall be deemed and held to be the performance of an essential
42 governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

43 **DRAFTING NOTE:** Technical corrections only.

44 ~~§ 9-253 2.2-2220. Board of directors; members; President.~~

45 A. The Authority shall be governed by a board of directors consisting of sixteen members appointed by the
46 Governor, two of whom shall be the ~~Presidents~~ presidents of the major research universities and one of whom shall represent
47 the other state public colleges or universities in Virginia. ~~Of the presidents to be appointed in 1993, one shall be appointed~~
48 ~~for a three year term, one shall be appointed for a four year term and one shall be appointed for a five year term.~~
49 ~~Thereafter~~ After the original appointments, all appointments of presidents shall be for terms of five years, except that
50 appointments to fill vacancies shall be for the unexpired terms. No president shall be eligible to serve for more than two
51 successive five-year terms; however, after the expiration of a term of four years or less, or after the expiration of the
52 remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed
53 thereto. The Secretary of Education, the Secretary of Commerce and Trade, the Secretary of Technology, and the Director of
54 the State Council of Higher Education shall serve on the ~~board~~ Board for terms coincident with their terms of office. The
55 Governor shall appoint the nine other ~~directors~~ members of the Board who shall be nominated by established industry groups

and technology councils within the Commonwealth. These appointees shall include representatives of a variety of businesses, industries and corporations of different types, sizes, locations and stages of development. All members of the ~~board of directors~~ Board appointed by the Governor shall be confirmed by each house of the General Assembly. ~~Three of the nine directors appointed by the Governor shall be appointed for terms of three years, three for terms of four years, and three for terms of five years, from the effective date of their appointment; and thereafter~~ After the original appointments, the members of the ~~board~~ Board shall be appointed for terms of four years. Vacancies in the membership of the ~~board~~ Board shall be filled by appointment of the Governor for the unexpired portion of the term. No ~~director member of the Board~~ shall be eligible to serve for more than two successive terms; however, after the expiration of a term of four years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Members of the ~~board~~ Board shall be subject to removal from office in like manner as are state, county, town and district officers under the provisions of §§ 24.2-230 through 24.2-238. ~~The Circuit Court of the City of Richmond shall have exclusive jurisdiction of all proceedings for such removal. Immediately after such appointment, the directors members of the Board shall enter upon the performance of their duties.~~

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

The ~~board~~ Board shall employ a President of the Authority, who shall serve at the pleasure of the ~~board~~ Board, to direct the day-to-day operations and activities of the Authority and carry out such of the powers and duties conferred upon him ~~as may be delegated to him by the board~~ Board. The President and employees of the Authority shall be compensated in the manner provided by the ~~board~~ Board and shall not be subject to the provisions of ~~Chapter 10 (§ 2.1-110 et seq.) of Title 2.1. The terms of all current board members shall expire on April 7, 1993~~ the Virginia Personnel Act (§ 2.2-2900 et seq.) of this title.

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

DRAFTING NOTE: Technical corrections. Language in subsection A relating to the venue for removal actions has been deleted as obsolete. Article 7 of Chapter 2 of Title 24.2, which is referenced in this section, provides the venue for removal actions.

~~§ 2.1-254 2.2-2221.~~ Powers of the Authority.

The Authority is ~~hereby granted and shall have and may exercise~~ all powers necessary or convenient for the carrying out of its statutory purposes, including, but ~~without limiting the generality of the foregoing~~ not limited to, the following rights and powers to:

1. ~~To sue~~ Sue and be sued, implead and be impleaded, complain and defend in all courts.
2. ~~To adopt~~ Adopt, use, and alter at will a corporate seal.
3. ~~To acquire~~ Acquire, purchase, hold, use, lease or otherwise dispose of any project and property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and, without limitation of the foregoing, to lease as lessee, any project and any property, real, personal or mixed, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the ~~board of the Authority~~ Board and to lease as lessor to any person, any project and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the ~~board of the Authority~~ Board, and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the board of the Authority.
4. ~~To plan~~ Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and operate projects.
5. ~~To make~~ Adopt bylaws for the management and regulation of its affairs.
6. ~~To establish~~ Establish and maintain satellite offices within the Commonwealth.
7. ~~To fix~~ Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for the sale of products of or for the services rendered by, the Authority, at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties, the payment of the costs accomplishing its purposes set

1 | forth in ~~§ 9-252.2-2219~~, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions
2 | of any agreements made with the purchasers or holders of any such obligations.

3 | 8. ~~To borrow~~ Borrow money, make and issue bonds including bonds as the Authority may, ~~from time to time~~,
4 | determine to issue for the purpose of accomplishing the purposes set forth in ~~§ 9-252.2-2219~~ or of refunding bonds
5 | previously issued by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of
6 | all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or
7 | any interest therein, and to make ~~such~~ agreements with the purchasers or holders of such bonds or with others in connection
8 | with any such bonds, whether issued or to be issued, as the Authority ~~shall deem~~ deems advisable, and in general to provide
9 | for the security for ~~the~~ bonds and the rights of holders thereof.

10 | 9. ~~To make~~ Make and enter into all contracts and agreements necessary or incidental to the performance of its
11 | duties, the furtherance of its purposes and the execution of its powers under this ~~chapter~~ article, including agreements with
12 | any person or federal agency.

13 | 10. ~~To employ~~ Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts,
14 | investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their
15 | compensation to be payable from funds made available to the Authority.

16 | 11. ~~To receive~~ Receive and accept from any federal or private agency, foundation, corporation, association or
17 | person grants to be expended in accomplishing the objectives of the Authority, and to receive and accept from the
18 | Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid
19 | or contributions of either money, property, or other things of value, to be held, used and applied only for the purposes for
20 | which such grants and contributions may be made.

21 | 12. ~~To render~~ Render advice and assistance, and to provide services, to institutions of higher education and to other
22 | persons providing services or facilities for scientific and technological research or graduate education, provided that credit
23 | towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of
24 | higher education authorized to operate in Virginia.

25 | 13. ~~To develop~~ Develop, undertake and provide programs, alone or in conjunction with any person or federal
26 | agency, for scientific and technological research, technology management, continuing education and in-service training,
27 | provided that credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction
28 | with an institution of higher education authorized to operate in Virginia; to foster the utilization of scientific and technological
29 | research information, discoveries and data and to obtain patents, copyrights and trademarks thereon; to coordinate the
30 | scientific and technological research efforts of public institutions and private industry and to collect and maintain data
31 | development and utilization of scientific and technological research capabilities. The universities set forth in ~~§ 9-252.2~~
32 | shall be the principal leading universities in the research institutes.

33 | 14. ~~To pledge~~ Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all
34 | or any of the obligations of the Authority.

35 | 15. ~~To receive~~ Receive, administer, and market any interest in patents, copyrights and materials ~~which that were~~
36 | potentially patentable or copyrightable developed by or for state agencies, ~~state supported public~~ institutions of higher
37 | education and political subdivisions of the Commonwealth. The Authority shall return to the agency, institution or political
38 | subdivision any revenue in excess of its administrative and marketing costs. When general funds are used to develop the
39 | patent or copyright or material ~~which that~~ was potentially patentable or copyrightable, any state agency, except a ~~state~~
40 | ~~supported public~~ institution of higher education in Virginia, shall return any revenues it receives from the Authority to the
41 | general fund unless the Governor authorizes a percentage of the net royalties to be shared with the developer of the
42 | patented, copyrighted, or potentially patentable or copyrightable property.

43 | 16. ~~To do~~ Do all acts and things necessary or convenient to carry out the powers granted to it by ~~this chapter or any~~
44 | ~~other acts~~ law.

45 | **DRAFTING NOTE:** Technical corrections only.

46 | ~~§ 9-255.2-2222~~. Form, terms, execution and sale of bonds; use of proceeds; interim receipts or temporary bonds;
47 | lost or destroyed bonds; faith and credit of state and political subdivisions not pledged; expenses.

48 | The bonds of each issue shall be dated, shall bear interest at such ~~rate or rates~~ as shall be fixed by the Authority,
49 | shall mature at such time ~~or times~~ not exceeding forty years from their date ~~or dates~~, as may be determined by the Authority,
50 | and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms
51 | and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of
52 | bonds and ~~their manner of execution of the bonds~~, and shall fix the denomination ~~or denominations~~ of the bonds and the
53 | place ~~or places~~ of payment of principal and interest, which may be at any bank or trust company within or without the
54 | Commonwealth. The bonds shall be signed by the chairman or vice-chairman of the Authority, or if so authorized by the
55 | Authority, shall bear his facsimile signature, and the official seal of the Authority, or, if so authorized by the Authority, a
56 | facsimile signature thereof shall be impressed or imprinted thereon and attested by the secretary or any assistant secretary of
57 | the Authority, or, if so authorized by the Authority, with the facsimile signature of such secretary or assistant secretary

1 coupons attached to bonds issued by the Authority shall bear the signature of the chairman or vice-chairman of the Authority
2 or a facsimile thereof. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or
3 coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless
4 be valid and sufficient for all purposes the same as if he had remained in office until such delivery and any bonds may bear
5 the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bonds shall be
6 the proper officers to sign such bonds although at the date of such bonds such persons may not have been such officers. The
7 bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for
8 the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into
9 coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon
10 bonds. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may
11 determine will best effect the purposes of this ~~chapter~~ article.

12 The proceeds of the bonds of each issue shall be used solely for the purposes, and in furtherance of the powers, of
13 the Authority as may be provided in the resolution authorizing the issuance of such bonds or in the trust agreement
14 ~~hereinafter mentioned authorized by § 2.2-2223 securing the same bonds~~.

15 In addition to the above powers, the Authority ~~shall have the authority to~~ may issue interim receipts or temporary
16 bonds as provided in ~~§ 45.1-227.18~~ § 15.2-2616 and to execute and deliver new bonds in place of bonds mutilated, lost or
17 destroyed, as provided in ~~§ 45.1-227.23~~ § 15.2-2621.

18 No obligation of the Authority shall be deemed to constitute a debt, or pledge of the faith and credit, of the
19 Commonwealth or of any political subdivision thereof, but shall be payable solely from the revenue and other funds of the
20 Authority pledged thereto. All such obligations shall contain on the face thereof a statement to the effect that the
21 Commonwealth, political subdivisions thereof and the Authority shall not be obligated to pay the same or the interest thereon
22 except from revenues and other funds of the Authority pledged thereto, and that neither the faith and credit nor the taxing
23 power of the Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or the interest
24 on such obligations.

25 All expenses incurred in carrying out the provisions of this ~~chapter~~ article shall be payable solely from funds provided
26 under the provisions of this ~~chapter~~ article and no liability shall be incurred by the Authority ~~hereunder~~ beyond the extent to
27 which moneys ~~shall have been~~ provided under the provisions of this ~~chapter~~ article.

28 **DRAFTING NOTE:** Technical corrections only.

29 ~~§-256~~ 2.2-2223. Trust agreement securing bonds.

30 In the discretion of the Authority any bonds issued under the provisions of this ~~chapter~~ article may be secured by a
31 trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the
32 powers of a trust company within or without the Commonwealth. ~~Such~~ The trust agreement or the resolution providing for the
33 issuance of ~~such the~~ bonds may (i) pledge or assign the revenues to be received and provide for the mortgage of any project
34 or property or any part thereof. ~~Such trust agreement or resolution providing for the issuance of such bonds may and (ii)~~
35 contain ~~such~~ provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and
36 proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of
37 property and the planning, development, acquisition, construction, rehabilitation, establishment, improvement, extension,
38 enlargement, maintenance, repair, operation and insurance of the project ~~or projects~~ in connection with which ~~such the~~ bonds
39 ~~shall have been~~ authorized, the rates and fees to be charged, the custody, safeguarding and application of all moneys, and
40 conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company
41 incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenue to
42 furnish ~~such the~~ indemnifying bonds or to pledge ~~such the~~ securities ~~as may be~~ required by the Authority. Any ~~such~~ trust
43 agreement may set forth the rights of action by bondholders. In addition to the foregoing, any ~~such~~ trust agreement or
44 resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the
45 bondholders. All expenses incurred in carrying out the provisions of ~~such the~~ trust agreement or resolution may be treated as
46 a part of the cost of the operation of the project or projects.

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§-257~~ 2.2-2224. Moneys received deemed trust funds.

49 All moneys received pursuant to the authority of this ~~chapter~~ article, whether as proceeds from the sale of bonds or
50 as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this ~~chapter~~ article. The resolution
51 authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer with whom, or
52 any bank or trust company with which, such moneys shall be deposited shall act as a trustee of such moneys and shall hold
53 and apply the same for the purposes hereof, subject to ~~such the~~ regulations as this ~~chapter~~ article and ~~such the~~ resolution or
54 trust agreement may provide.

55 **DRAFTING NOTE:** Technical corrections only.

56 ~~§-258~~ 2.2-2225. Proceedings by bondholder or trustee to enforce rights.

1 Any holder of bonds issued under the provisions of this ~~chapter article~~ or any of the coupons appertaining thereto,
2 and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by ~~such the~~ trust
3 agreement or the resolution authorizing the issuance of such bonds, may either at law or in equity, by suit, action, mandamus
4 or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or
5 under ~~such the~~ trust agreement or resolution, and may enforce and compel the performance of all duties required by this
6 ~~chapter article~~ or by ~~such the~~ trust agreement or resolution to be performed by the Authority or by any officer thereof,
7 including the fixing, charging, and collecting of rates, rentals, and other charges.

8 **DRAFTING NOTE:** Technical corrections only.

9 ~~§-0-260 2.2-2226.~~ Bonds made securities for investment and deposit.

10 Bonds issued by the Authority under the provisions of this ~~chapter are hereby made~~ article shall be securities in
11 which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust
12 companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may
13 properly and legally invest funds, including capital in their control or belonging to them. Such bonds ~~are hereby made~~ shall be
14 securities ~~which that~~ may properly and legally be deposited with and received by any state or municipal officer or any agency
15 or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the
16 Commonwealth is now or may ~~hereafter~~ be authorized by law.

17 **DRAFTING NOTE:** Technical corrections only.

18 ~~§-0-260 2.2-2227.~~ Revenue refunding bonds; bonds for refunding and for cost of additional projects.

19 The Authority ~~is hereby authorized to may~~ provide for the issuance of revenue refunding bonds of the Authority for
20 the purpose of refunding any bonds then outstanding ~~which that shall~~ have been issued under the provisions of this ~~chapter~~
21 article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of
22 redemption of ~~such the~~ bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing
23 improvements, extensions, or enlargements of the project or projects in connection with which the bonds to be refunded shall
24 have been issued. The Authority ~~is further authorized to may~~ provide by resolution for the issuance of its revenue bonds for
25 the combined purpose of (i) refunding any bonds then outstanding which shall have been issued under the provisions of this
26 ~~chapter article~~, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of
27 redemption of ~~such the~~ bonds, and (ii) paying all or any part of the cost of any additional project ~~or projects~~ or any portion ~~or~~
28 ~~portions~~ thereof. The issuance of ~~such the~~ bonds, the maturities and other details thereof, the rights of the holders thereof,
29 and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this
30 ~~chapter article~~ insofar as ~~the same they~~ may be applicable.

31 **DRAFTING NOTE:** Technical corrections only.

32 ~~§-0-264 2.2-2228.~~ Grants or loans of public or private funds.

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

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§-0-265 2.2-2229.~~ Moneys of Authority; examination of books by the Auditor of Public Accounts.

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

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§-0-262 2.2-2230.~~ Exemption from taxes or assessments.

49 The exercise of the powers granted by this ~~chapter will~~ article shall be in all respects for the benefit of the people of
50 the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living
51 conditions, and as the operation and maintenance of projects by the Authority and the undertaking of activities in furtherance
52 of the purpose of the Authority ~~will~~ constitute the performance of essential governmental functions, the Authority shall not be
53 required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the

1 provisions of this ~~chapter article~~ or upon the income therefrom, including sales and use taxes on tangible personal property
2 used in the operations of the Authority, and any bonds issued under the provisions of this ~~chapter article~~, their transfer and
3 the income therefrom (including any profit made on the sale thereof) shall at all times be free from state and local taxation.
4 The exemption ~~heroby~~ granted in this section shall not be construed to extend to persons conducting on the premises of a
5 facility businesses for which local or state taxes would otherwise be required.

6 **DRAFTING NOTE:** Technical corrections only.

7 ~~§ 0-264 2.2-2231.~~ Exemption of Authority from personnel and procurement procedures.

8 The provisions of ~~Chapter 10 (§ 2.1-110 et seq.)~~ the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.1 and
9 ~~Chapter 7 the Virginia Public Procurement Act (§ 11-35-2.2-4300 et seq.)~~ of Title 11 this title shall not apply to the Authority in
10 the exercise of any power conferred under this ~~chapter article~~.

11 **DRAFTING NOTE:** Technical corrections only.

12 ~~§ 0-263 2.2-2232.~~ Auxiliaries.

13 A. The Governor is ~~heroby~~ authorized to may provide for the formation of a nonstock corporation to carry out the
14 purpose of this ~~chapter article~~. The board of directors of the nonstock corporation shall consist of the fifteen members of the
15 ~~board of directors~~ Board of the Authority. The articles of incorporation of the nonstock corporation shall provide that upon
16 dissolution the net assets of the corporation shall be transferred to the Commonwealth ~~of Virginia~~. The nonstock corporation
17 shall ~~insure~~ ensure that the economic benefits attributable to the income and property rights arising from any transactions in
18 which the nonstock corporation is involved are allocated on a basis ~~which that is~~ equitable in the reasonable business
19 judgment of the board of directors, with due account being given to the interest of the citizens of the Commonwealth and the
20 needs of the nonstock corporation. Any such nonstock corporation shall not be deemed to be a state or governmental
21 agency, advisory agency, public body or agency or instrumentality for purposes of Chapters 40 (~~§ 2.1-110 et seq.~~), 13 (~~§ 2.1-~~
22 ~~153 et seq.~~), 14 (~~§ 2.1-173 et seq.~~), 18 (~~§ 2.1-327 et seq.~~), 21 (~~§ 2.1-340 et seq.~~), 23 (~~§ 2.1-350 et seq.~~), 26 (~~§ 2.1-377 et~~
23 ~~seq.)~~ and 40.1 (~~§ 2.1-630.1 et seq.~~) 8 (~~§ 2.2-800 et seq.~~), 18 (~~§ 2.2-1800 et seq.~~), 24 (~~§ 2.2-2400 et seq.~~), 29 (~~§ 2.2-2900 et~~
24 ~~seq.)~~, 31 (~~§ 2.2-3100 et seq.~~), 37 (~~§ 2.2-3700 et seq.~~), 38 (~~§ 2.2-3800 et seq.~~), 43 (~~§ 2.2-4300 et seq.~~), 44 (~~§ 2.2-4400 et~~
25 ~~seq.)~~, 45 (~~§ 2.2-4500 et seq.~~), 46 (~~§ 2.2-4600 et seq.~~), and 47 (~~§ 2.2-4700 et seq.~~) of Title 2.1 this title, Chapter 14 (~~§ 30-130~~
26 ~~et seq.)~~ of Title 30 or Chapter 7 (~~§ 11-35 et seq.)~~ of Title 11 and Chapter 1 (~~§ 51.1-124.1 et seq.)~~ of Title 51.1, ~~nor shall any~~
27 no director, officer or employee of any such nonstock corporation or entity be shall deemed to be an officer or employee for
28 purposes of Chapter 40.1 31 (~~§ 2.1-630.1~~ (~~§ 2.2-3100 et seq.~~) of Title 2.1 this title. Notwithstanding the foregoing, the Auditor
29 of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Authority and
30 any such nonstock corporation entity, provided that the working papers and files of the Auditor of Public Accounts relating to
31 such audits shall not be subject to the provisions of Chapter 21 (~~§ 2.1-340 et seq.)~~ of Title 2.1 The Freedom of Information Act
32 (~~§ 2.2-3700 et seq.~~).

33 B. Notwithstanding the provisions of subsection A ~~of this section~~, as an entity receiving state funds, any such
34 nonstock corporation shall be subject to periodic external review either (i) under the provisions of the Legislative Program
35 Review and Evaluation Act (§ 30-64 et seq.) or (ii) by an entity appointed for that purpose by the Governor. Any such
36 nonstock corporation shall be deemed to be an institution of higher education within the meaning of §§ 23-3.1 and 23-9.2, but
37 only for the limited purposes therein stated.

38 **DRAFTING NOTE:** Technical corrections only.

39 ~~§ 0-265.1 2.2-2233.~~ Advanced Communications Assistance Fund created; purposes.

40 A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public
41 or private sources, there is ~~heroby~~ created in the state treasury a special nonreverting, permanent fund, to be known as the
42 Advanced Communications Assistance Fund ("the Fund"), to be administered by the Authority. The Fund shall be established
43 on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any
44 moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund
45 but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be
46 made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the
47 chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the
48 official seal of the Authority.

49 B. Moneys in the Fund shall be used solely for the purpose of helping underserved localities in the Commonwealth
50 take full advantage of advanced communications services. Loans or grants from the Fund shall be used in underserved
51 localities for (i) the internal communication needs of such localities, which may include but are not limited to fiber-optic,
52 satellite, and wireless communications networks, or (ii) help in financing the costs of planning, designing, purchasing, leasing,
53 installing, or maintaining dark fiber to the extent permitted in § 15.2-1500.

54 C. For purposes of this section:

5 "Dark fiber" means fiber optic cable ~~which that is~~ not lighted by lasers or other electronic equipment.

1 "Underserved locality" means a locality wherein advanced communication services are not readily and generally
2 available from three or more nonaffiliated certificated local exchange companies.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 0-266. Title to property.~~

5 ~~The Authority may acquire title to property in its own name or in the name of the Commonwealth for and on behalf of~~
6 ~~the Authority.~~

7 **DRAFTING NOTE:** This section has been deleted as duplicative of subdivision 3 of proposed § 2.2-2221 supra.

8 Article 4.

9 Virginia Economic Development Partnership Authority.

10 ~~§ 2.1-548.26. Short title.~~

11 ~~This article shall be known and may be cited as the "Virginia Economic Development Partnership Act."~~

12 **DRAFTING NOTE:** Technical corrections. This proposed section now appears as subsection A in proposed §2.2-2234 infra.

13 ~~§ 2.1-548.27. Definitions.~~

14 ~~The following terms, whenever used or referred to in this article, have the following meanings, except where the~~
15 ~~context clearly indicates otherwise:~~

16 ~~"Authority" means the Virginia Economic Development Partnership, the body corporate and political subdivision of~~
17 ~~the Commonwealth created by this article.~~

18 ~~"Board" means the Board of Directors of the Authority.~~

19 ~~"Federal agency" means the United States; the President of the United States; and any department, corporation,~~
20 ~~agency, or instrumentality heretofore or hereafter created, designated, or established by the United States.~~

21 ~~"Person" means natural persons, firms, foundations, associations, corporations, business trusts, partnerships, joint~~
22 ~~ventures, and public bodies, including but not limited to the Commonwealth of Virginia; any state; and any agency,~~
23 ~~department, institution, political subdivision or instrumentality of the Commonwealth or any state.~~

24 **DRAFTING NOTE:** The definitions of "Authority," "Board," "Federal agency," and "Person" from this section have been
25 consolidated in a single definitional section located at the beginning of this Subpart 1 as § 2.2-2200.

26 ~~§ 2.1-548.28 2.2-2234. Short title; declaration of public purpose; Authority created.~~

27 ~~A. This article shall be known and may be cited as the "Virginia Economic Development Partnership Act."~~

28 ~~B. The General Assembly has determined that there exists in the Commonwealth a need to encourage, stimulate~~
29 ~~and support the development and expansion of the economy of the Commonwealth through economic development.~~

30 ~~C. To achieve the objective of subsection B, there is created a political subdivision of the Commonwealth to be~~
31 ~~known as the Virginia Economic Development Partnership Authority hereinafter referred to as the Authority, is created as a~~
32 ~~body corporate and political subdivision and as such shall have, and is hereby vested with, the Authority's exercise of~~
33 ~~powers and duties hereinafter conferred in this article by this article shall be deemed the performance of an essential~~
34 ~~governmental function and matters of public necessity for which public moneys may be spent and private property acquired.~~

35 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
36 A is § 2.1-548.26 and subsection C is § 2.1-548.28. Standard language for the declaration of public purpose used generally
37 with the creation of an authority was added in this section as subsection B for consistency.

38 ~~§ 2.1-548.34 2.2-2235. Board of directors; members and officers; Executive Director.~~

39 ~~All powers, rights, and duties conferred by this article, or other provisions of law, upon the Authority shall be~~
40 ~~exercised by the Board of Directors of the Virginia Economic Development Partnership, hereinafter referred to as the Board.~~
41 ~~The Board shall consist Authority shall be governed by board of directors consisting of the Secretary of Commerce and~~
42 ~~Trade, the Secretary of Finance, and thirteen members, one from each congressional district in the Commonwealth and two~~
43 ~~citizens at large, appointed by the Governor, subject to confirmation by the General Assembly. Four of the thirteen directors~~
44 ~~initially appointed by the Governor shall be appointed for terms of two and one-half years, four for terms of four and one-half~~
45 ~~years, and five for terms of six and one-half years, from the effective date of their appointment; and thereafter the terms of~~
46 ~~members of the Board shall be six years. No member appointed by the Governor shall be eligible to serve more than two~~
47 ~~terms; however, after the expiration of the term of a member appointed to serve three years or less, two additional terms may~~
48 ~~be served if appointed thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed by the~~
49 ~~Governor to fill a vacancy may be appointed to serve two additional terms. Members of the Board shall receive their expenses~~
50 ~~and shall be compensated at the rate provided in § 2.1-20.32.2-2104 for each day spent on the business of the Board.~~

1 The Board shall elect from its membership a chairman and a vice-chairman, and shall also elect a secretary and a
2 treasurer, who ~~may or may need~~ not be members of the Board, and may also elect other subordinate officers, who ~~may or~~
3 ~~may need~~ not be members of the Board, ~~as it shall deem proper~~. The Board may also form committees and advisory councils,
4 which may include representatives who are not members of the Board, to undertake more extensive study and discussion of
5 the issues before the Board.

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

8 The Board shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, who
9 shall be known as the Executive Director and who shall serve at the pleasure of the Board and carry out such of the powers
10 and duties conferred upon him ~~as may be delegated~~ by the Board.

11 **DRAFTING NOTE:** Technical corrections. Quorum requirements were added for clarification and consistency with other
12 standard language for authorities.

13 ~~§ 2.1-548.32~~ 2.2-2236. Powers and duties of the Executive Director.

14 The Executive Director shall employ or retain such agents or employees subordinate to the Executive Director as
15 may be necessary to fulfill the duties of the Authority conferred upon the Executive Director, subject to the Board's approval.
16 Employees of the Authority shall be eligible for membership in the Virginia Retirement System and participation in all of the
17 health and related insurance and other benefits, including premium conversion and flexible benefits, available to state
18 employees as provided by law. The Executive Director shall also exercise such of the powers and duties relating to the
19 direction of the Commonwealth's economic development efforts conferred upon the Authority as may be delegated to him by
20 the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also exercise and
21 perform such other powers and duties as may be lawfully delegated to him or as may be conferred or imposed upon him by
22 law.

23 **DRAFTING NOTE:** Technical corrections only.

24 ~~§ 2.1-548.35~~ 2.2-2237. Powers of Authority.

25 The Authority is ~~heroby granted and shall have and may exercise~~ all powers necessary or convenient for the
26 carrying out of its statutory purposes, including, but ~~without limiting the generality of the foregoing~~ not limited to, the power to:

27 1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

28 2. Adopt, use, and alter at will a common seal;

29 3. Acquire, purchase, hold, use, lease or otherwise dispose of any property, real, personal or mixed, tangible or
30 intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and to lease as
31 lessee, any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such
32 terms and conditions as may be determined by the Board ~~of the Authority~~ and to lease as lessor to any person, any property,
33 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or
34 partially completed, at such annual rental and on such terms and conditions as may be determined by the Board ~~of the~~
35 ~~Authority~~, and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible, or any interest therein,
36 at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board ~~of the~~
37 ~~Authority~~, provided that the terms of any conveyance or lease of real property shall be subject to the prior written approval of
38 the Governor ~~in writing~~;

39 4. Fix, alter, charge and collect rates, rentals, fees, and other charges for the use of property of, the sale of products
40 of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the
41 expenses of the Authority;

42 5. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the
43 furtherance of its purposes, and the execution of its powers under this article, including agreements with any person or
44 federal agency;

45 6. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,
46 investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their
47 compensation to be payable from funds made available to the Authority. The Authority may hire employees within and without
48 the Commonwealth and the United States without regard to whether such employees are citizens of the Commonwealth.
49 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 41 ~~(§ 2.1-117 et seq.)~~ 5
50 (§ 2.2-500 et seq.) of this title;

51 7. Receive and accept from any federal or private agency, foundation, corporation, association or person, grants or
52 other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or
53 any state, and any municipality, county or other political subdivision thereof or from any other source, aid or contributions of
54 either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and
55 contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority
56 upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state

1 moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by
2 the Commonwealth;

3 8. Render advice and assistance and to provide services to state agencies, local and regional economic
4 development entities, private firms, and other persons providing services or facilities for economic development in Virginia;

5 9. Develop, undertake, and provide programs, alone or in conjunction with any person, for economic research,
6 industrial development research, and all other research that might lead to improvements in economic development in Virginia;

7 10. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be
8 transacted and the manner in which the powers of the Authority shall be exercised and its duties performed; and

9 11. Do all acts and things necessary or convenient to carry out the powers granted to it by this article or any other
10 acts law, and perform any act or carry out any function not inconsistent with state law that may be useful in carrying out the
11 provisions of this article.

12 **DRAFTING NOTE:** Technical corrections. Subdivision 10 was moved here from existing § 2.1-548.33. The last phrase in
13 subdivision 11 was moved here from existing § 2.1-548.34 infra.

14 ~~§ 2.1-548.29~~ 2.2-2238. Economic development services.

15 It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the
16 economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

17 1. ~~To see~~ See that there are prepared and carried out effective economic development marketing and promotional
18 programs;

19 2. ~~To make~~ Make available, in conjunction and cooperation with localities, chambers of commerce, industrial
20 authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of
21 interest and concern to such businesses;

22 3. ~~To formulate~~ Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the
23 location of new businesses in the Commonwealth and the retention and growth of existing businesses;

24 4. ~~To encourage~~ Encourage and solicit private sector involvement, support, and funding for economic development
25 in the Commonwealth;

26 5. ~~To encourage~~ Encourage the coordination of the economic development efforts of public institutions, regions,
27 communities, and private industry and collect and maintain data on the development and utilization of economic development
28 capabilities;

29 6. ~~To establish~~ Establish such offices within and without the Commonwealth that are necessary to the expansion and
30 development of industries and trade;

31 7. ~~To encourage~~ Encourage the export of products and services from the Commonwealth to international markets;
32 and

33 8. ~~Upon request, to advise~~ Advise, upon request, the State Board for Community Colleges in designating technical
34 training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program
35 pursuant to § 23-220.4.

36 **DRAFTING NOTE:** Technical corrections only.

37 ~~§ 2.1-548.30~~ 2.2-2239. Planning and research.

38 It shall also be the duty of the Authority to:

39 1. Assist in the development of the comprehensive economic development strategy for the Commonwealth, starting
40 the first year of each new gubernatorial administration, consistent with the provisions of ~~Chapter 5.0 (§ 2.1-51.38 et~~
41 ~~seq.)~~ Article 3 (§ 2.2-204 et seq.) of Chapter 2 of Title 2.1 this title;

42 2. Report annually to the Governor on the status of the implementation of the comprehensive economic development
43 strategy and recommend legislative and executive actions related to the implementation of the comprehensive economic
44 development strategy; and

45 3. Conduct such studies and research, in collaboration with state agencies, universities, local and regional industrial
46 authorities and organizations, and other persons within and without the Commonwealth, as the Board ~~may deem~~ deems
47 necessary, to assist in the development of the comprehensive economic strategy and the development of recommendations
48 and advice on the improvement of economic development and related programs and strategies across the Commonwealth.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§ 2.1-548.43~~ 2.2-2240. Nonstock corporation to assist economic development.

51 The Board ~~is hereby authorized to may~~ establish nonprofit, nonstock corporations under Chapter 10 (§ 13.1-801 et
52 seq.) of Title 13.1 as public instrumentalities exercising public and essential governmental functions, to assist the Board and

the Authority in (i) promoting Virginia's economic development and tourism promotion efforts in the national and international corporate community; (ii) raising money in the corporate and nonprofit community to pay for advertising and promotion of the Commonwealth; (iii) raising nonstate dollars to complement state and local economic development activities; or (iv) conducting or undertaking other activities useful in carrying out the provisions of this article.

The ~~Board of Directors~~ board of directors of any such corporation shall be composed of the Executive Director of the ~~Virginia Economic Development Partnership Authority~~ and eight members appointed by the Board of the Authority. However, any such corporation established to promote the tourism industry in the Commonwealth shall be composed of the Executive Director of the Authority, six members appointed by the Board of the Authority, and six members who represent the tourism industry appointed by the Governor. The terms of the members of any corporation established to promote the tourism industry in the Commonwealth appointed by the Governor shall be four years.

The Board shall require any such corporation to report to it at least annually on its activities.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-548.33. Bylaws and organization.~~

~~The Authority shall have the power to adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed.~~

DRAFTING NOTE: Technical corrections only. This section now appears as subdivision 10 in proposed § 2.2-2237.

~~§ 2.1-548.34. Powers not restrictive.~~

~~The Authority shall have the power to perform any act or carry out any function not inconsistent with state law, whether included in the provisions of this article, which may be useful in carrying out the provisions of this article.~~

DRAFTING NOTE: Technical corrections. This section now appears as part of subdivision 11 of proposed section 2.2-2237 supra.

~~§ 2.1-548.39~~ 2.2-2241. Moneys of Authority.

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

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-548.40~~ 2.2-2242. Forms of accounts and records; audit; annual report.

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in ~~such a form as prescribed by the Auditor of Public Accounts prescribes~~ such a form as prescribed by the Auditor of Public Accounts of the Commonwealth, and or his legally authorized representatives, shall annually examine the accounts and books of the Authority.

The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year, ~~beginning in 1996~~. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The annual report shall be distributed in accordance with the provisions of ~~§ 2.1-467~~ 2.2-1127.

The Authority shall submit a detailed annual operational plan and budget to the Secretary of Commerce and Trade and the Director of the Department of Planning and Budget by November 1, ~~beginning in 1996~~. Notwithstanding other provisions of this article, the form and content of the operating plan and budget shall be determined by the Director of the Department of Planning and Budget and shall include information on salaries, expenditures, indebtedness and other information as ~~shall be determined by the Director of the Department of Planning and Budget~~.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-548.41~~ 2.2-2243. Exemptions from taxes or assessments.

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

1 **DRAFTING NOTE:** Technical corrections only.

2 ~~§ 2.1-548.38~~ 2.2-2244. Exemption of Authority from personnel and procurement procedures.

3 The provisions of ~~Chapter 10 (§ 2.1-100 et seq.)~~ the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.1 and
4 ~~Chapter 7 the Virginia Public Procurement Act (§ 11-35-2.2-4300 et seq.)~~ of Title 11 of the Code of Virginia this title shall not
5 apply to the Authority in the exercise of any power conferred under this article.

6 **DRAFTING NOTE:** Technical corrections only.

7 ~~§ 2.1-548.36~~ 2.2-2245. Appropriations by any government.

8 Any government may make appropriations for the acquisition, construction, improvement, maintenance or operation
9 of any property acquired, constructed, improved, maintained or operated by the Authority.

10 **DRAFTING NOTE:** Technical corrections only.

11 ~~§ 2.1-548.37~~ 2.2-2246. Conveyance, lease or transfer of property by a city or county to the Authority.

12 Any city or county within the Commonwealth in order to provide for the construction, reconstruction, improvement,
13 repair or management of any property, or in order to accomplish any of the purposes of this article may, with or without
14 consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to the Authority any real, personal or
15 mixed property located within such city or county.

16 **DRAFTING NOTE:** Technical corrections only.

17 ~~§ 2.1-548.42. State agencies to furnish information and assistance.~~

18 ~~All agencies of the Commonwealth shall assist the Authority upon its request and furnish such assistance and~~
19 ~~information as the Authority may require in the discharge of its duties.~~

20 **DRAFTING NOTE:** Technical corrections. The last sentence in this section was consolidated with other like sections and
21 now appears as § 2.2-2103 near the beginning of this Part D.

22 Article 5.

23 Virginia Information Providers Network Authority.

24 ~~§ 0-350~~ 2.2-2247. Definitions.

25 As used in this chapter article, unless the context clearly indicates otherwise requires a different meaning:

26 ~~"Authority" means the Virginia Information Providers Network Authority, a political subdivision of the Commonwealth~~
27 ~~created by this chapter.~~

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

29 "Gateway" means any centralized electronic information system by which public information shall be provided via
30 dial-in modem or continuous link to the public through subscription or through public libraries.

31 "Public information" means any information created, acquired, or stored in electronic, magnetic, optical or magneto-
32 optical form by state agencies ~~which that~~ is included within the information deemed to be public pursuant to the Virginia
33 Freedom of Information Act (~~§ 2.1-340 et seq.~~ 2.2-3700 et seq.) or the Virginia Public Records Act (§ 42.1-76 et seq.).

34 "State agency" means any agency, institution, board, bureau, commission, council, or instrumentality of state
35 government.

36 "User association" means an association of users of information through a gateway.

37 **DRAFTING NOTE:** Technical corrections. The definitions of "Authority" and "Board," have been consolidated in a single
38 definitional section located at the beginning of this Chapter 22 as § 2.2-2200.

39 ~~§ 0-360~~ 2.2-2248. Declaration of purpose; Authority established.

40 The General Assembly determines that there exists in the Commonwealth a need to provide for the centralized
41 marketing, provision, leasing or executing of license agreements for access on-line or in volume on such terms and
42 conditions as may be determined to be in the best interest of the Commonwealth. Therefore, a political subdivision of the
43 Commonwealth to be known as the Virginia Information Providers Network Authority is ~~hereby~~ created. The Authority's
44 exercise of powers conferred by this ~~chapter~~ article shall be deemed to be the performance of an essential governmental
45 function and matters of public necessity for which public moneys may be spent and private property acquired.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 0-364~~ 2.2-2249. Board of directors; members and officers; Network Manager.

1 The Authority shall be governed by a board of directors consisting of eleven members, two of whom shall be the
2 Secretary of Technology and the Director of the Department of Technology Planning, both of whom shall serve ~~during their for~~
3 terms coincident with their terms of office. The remaining nine members shall be appointed by the Governor as follows: three
4 members who are chief executive officers of agencies in the executive branch; two members from a list submitted by the
5 Virginia State Bar; three members from user associations of a statewide character, except that no two shall represent the
6 same user association; and one member from a list submitted by the Librarian of Virginia. Three members appointed by the
7 Governor shall be appointed for terms of one year, three for terms of two years, and three for terms of three years, effective
8 from their dates of appointment. Thereafter, board members shall be appointed for terms of three years. All board members
9 appointed by the Governor shall be confirmed by ~~the affirmative vote of a majority of those voting in each house of the~~
10 General Assembly. Vacancies in ~~board~~ membership shall be filled by appointment for the unexpired portion of the term. Board
11 members shall be subject to removal from office for cause.

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

18 Pursuant to ~~§-2-1-20-8~~ 2.2-2823, ~~board~~ Board members shall be entitled to reimbursement for their reasonable
19 travel, meal and lodging expenses incurred in attending board meetings or while otherwise engaged in discharging their
20 duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers signed by the ~~board~~ chairman or by
21 such other person as the ~~board~~ Board designates for this purpose.

22 The ~~board~~ Board shall employ a ~~network manager of the Authority~~ Network Manager, who shall serve at the
23 pleasure of the ~~board~~ Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and
24 duties conferred upon him ~~as may be delegated to him by the board~~ Board. The ~~network manager~~ Network Manager and
25 employees of the Authority shall be compensated in the manner provided by the ~~board~~ Board.

26 **DRAFTING NOTE:** Technical corrections only.

27 ~~§-0-362~~ 2.2-2250. Powers and duties of the Authority.

28 The Authority may exercise all powers necessary or convenient for carrying out its statutory purposes, including,
29 without limitation, the power to:

- 30 1. Sue and be sued, implead and be impleaded, complain and defend in all courts;
- 31 2. Adopt, use, and alter at will a common seal;
- 32 3. Foster the development of a coordinated, comprehensive system for providing ready access to electronic public
33 state government information for individuals, businesses, and other entities;
- 34 4. Make and execute contracts, lease agreements and all other instruments necessary or convenient to exercise the
35 powers of the Authority or to further the public purpose for which the Authority is created;
- 36 5. Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or personal property of every kind
37 and character, or any interest therein, in furtherance of the public purpose of the Authority;
- 38 6. Apply for and accept any gifts or grants or loan guarantees or loans of funds or property or financial and other aid
39 in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or
40 instrumentality thereof, or from any other source for any or all of the purposes specified in this ~~chapter article~~ and to comply,
41 subject to the provisions of this ~~chapter article~~, with the terms and conditions thereof;
- 42 7. Contract with state agencies or any local government for the use by the Authority of any property, facilities, or
43 services of the state or any such state agency or local government or for the use by any state agency or local government of
44 any facilities or services of the Authority; and such state agencies and local governments are authorized to enter into such
45 contracts;
- 46 8. Fix and collect fees and charges for public information, media, and incidental services furnished by it to any
47 private individual or entity, notwithstanding the charges set forth in ~~§-2-1-342~~ 2.2-3704;
- 48 9. Deposit or invest funds held by it in any state depository or in any investment ~~which that~~ is authorized for the
49 investment of proceeds of state general obligation bonds, and use, redeposit, or reinvest interest earned on such funds for
50 the purposes set forth in this ~~chapter article~~;
- 51 10. Exercise any power granted by the laws of the Commonwealth not in conflict with the public purpose of the
52 Authority; and
- 53 11. Make rules and regulations for its own governance.

54 **DRAFTING NOTE:** Technical corrections only.

55 ~~§-0-363~~ 2.2-2251. Network manager; duties.

1 The ~~network manager~~ Network Manager shall (i) direct and supervise the day-to-day operations and expansion of
2 the gateway and network, including the initial phase of operations necessary to make such gateway operational; (ii) attend
3 meetings of the Authority; (iii) keep a record of all gateway, network and related operations of the Authority, which shall be the
4 property of the Authority; (iv) maintain and be custodian of all financial and operational records, documents, and papers filed
5 with the Authority; and (v) update and revise annually the business plan of the Authority, in consultation with and under the
6 direction of the ~~Authority's board of directors~~ Board.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§-9-364~~ 2.2-2252. Access to public information of state agencies.

9 A. All state agencies may make available to the Authority access to public information upon terms mutually agreed
10 upon by the Authority and any such state agency.

11 B. The Authority shall reimburse the state agency for costs incurred to provide such access to the Authority. The
12 Authority shall establish a reasonable fee, which may include no fee where appropriate, for electronic access to information
13 and electronic transactions, such that user fees from all Authority electronic services shall be sufficient to maintain, develop,
14 operate, and expand the electronic network on a continuing basis. Any fees due and owing under statutory authority to an
15 agency for specific types of information accessed shall be paid by the Authority to the agency. The Authority shall minimize
16 the fees charged for commercially viable information, and shall maximize the amount of information provided at no charge.

17 **DRAFTING NOTE:** Technical corrections only.

18 ~~§-9-365~~ 2.2-2253. Access to public information; receipt of information; application of statutory restrictions on
19 confidentiality to Authority.

20 A. The Authority may provide electronic access to public information provided to it by any state agency and to the
21 extent provided in the agreement with the providing agency. The Authority shall explore ways and means of expanding the
22 amount and kind of public information provided, increasing the utility of the public information provided and the form in which
23 it is provided, expanding the base of users who access ~~such~~ public information and, where appropriate, implementing
24 changes.

25 B. The Authority ~~shall be authorized to~~ may execute license agreements ~~which that~~ provide access to public
26 information in any electronic medium or format. In executing such agreements, the Authority shall ensure that only those
27 ~~entities~~ entities legally entitled to access information will be permitted access to information through the Network. The
28 Authority shall further ensure that the Network does not aggregate independent sources of information to which it has access
29 for the purpose of building comprehensive records about the citizens of the Commonwealth. Nothing contained in this ~~chapter~~
30 article shall preclude any state agency from providing access to public information to the public or other government agencies
31 or entities, or from disseminating any public information to which the Authority does not provide access. Further, nothing
32 contained in this ~~chapter article~~ shall authorize any state agency to provide access to information on a basis that is otherwise
33 prohibited under existing law.

34 C. The Authority may be authorized by the judicial and legislative branches to execute license agreements ~~which~~
35 that provide access to public information in any electronic medium or format on their behalf. However, nothing in this ~~chapter~~
36 article shall be construed to affect or pertain to records originating from or under the control of the clerks of the circuit courts
37 of the Commonwealth except upon terms mutually agreed upon by the Authority, any state agency that may be holding such
38 records for archival purposes, and the clerk's office where such records originated.

39 D. The Authority may receive public information in electronic format from members of the public for the purpose of
40 transmitting ~~such the~~ public information electronically to state agencies.

41 E. In circumstances where official records subject to the Virginia Freedom of Information Act (~~§-2-1-340~~ 2.2-3700 et
42 seq.) are furnished to the Authority by any state agency and ~~such the~~ records are no longer available from such agency, the
43 Authority, as custodian of ~~such the~~ records, shall be subject to requests for ~~such the~~ records made pursuant to the Freedom
44 of Information Act. All statutory provisions governing public or official records, including, but not limited to, the Freedom of
45 Information Act, the Privacy Protection Act of 1976 (~~§-2-1-377~~ 2.2-3800 et seq.), and the Virginia Public Records Act (§ 42.1-
46 76 et seq.), and all penalties for any violation thereof shall apply to the Authority and its employees. Nothing in this ~~chapter~~
47 article shall relieve any public body, including the Authority, of any duty imposed by such statutory provisions governing
48 public or official records, nor shall this ~~chapter article~~ be construed to authorize or encourage the destruction or deletion of
49 such records by public bodies.

50 **DRAFTING NOTE:** Technical corrections only.

51 ~~§-9-365.1~~ 2.2-2254. Resource site for employment and internship opportunities.

52 ~~On or before January 1, 1999, the~~ The Authority shall establish ~~and thereafter~~, maintain, and update a resource site
53 on the global information system known as the Internet, which provides a clearinghouse for employers and students at
54 institutions of higher education to exchange information about employment and internship opportunities, including part-time,

summer, and holiday opportunities. The Authority shall not charge students or institutions of higher education any fees for establishing, maintaining, or updating the resource site.

DRAFTING NOTE: Technical corrections only.

~~§ 9-367 2.2-2255.~~ Ownership of public information not affected.

Nothing in this ~~chapter~~ article shall be deemed to effect a transfer of ownership of any public information from any state agency to the Authority.

DRAFTING NOTE: Technical corrections only.

~~§ 9-368 2.2-2256.~~ Financing and operations; Virginia Information Providers Network Fund established.

A. Initial funding for start-up costs incurred by the Authority shall be obtained from private donations. No state funds shall be used for any Authority purpose.

B. The Authority shall fund its operations from revenues generated from providing access to public information, and from money, goods or in-kind services donated to the Authority by private sources.

C. There is ~~herby~~ established a special fund in the state treasury to be known as the Virginia Information Providers Network Fund, hereinafter referred to as "the Fund." All moneys received by the Authority, including revenues generated from providing access to public information, and any gifts, donations, grants, or other contributions from any source, public or private, shall be deposited in the Fund. Expenses incurred by the Authority in accomplishing its purposes set forth in this ~~chapter~~ article, as determined by the Board, shall be paid out of the Fund on warrant of the Comptroller. The Comptroller shall transfer the balance of the moneys in the Fund to the appropriate state agency or to the general fund, as required by the terms of the agreements between state agencies and the Authority pursuant to ~~§ 9-364 2.2-2252,~~ no later than June 30 of each year.

DRAFTING NOTE: Technical corrections only.

~~§ 9-370 2.2-2257.~~ Forms of accounts and records; audit; annual report.

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

The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the preceding June 30. The annual report shall be distributed in accordance with the provisions of ~~§ 2-1-467 2.2-1127.~~

DRAFTING NOTE: Technical corrections only.

~~§ 9-366 2.2-2258.~~ Exemption from ~~taxes~~ taxation and assessments.

The exercise of the powers granted by this ~~chapter~~ article shall be in all respects for the benefit of the people of the Commonwealth. As the operation of the Authority and the undertaking of activities in the furtherance of the purposes of the Authority ~~shall constitute~~ constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption ~~herby~~ granted in this section shall not be construed to extend to persons conducting a business on the premises of the facility for which local or state taxes would otherwise be required.

DRAFTING NOTE: Technical corrections only.

~~§ 9-369 2.2-2259.~~ Exemption of Authority from personnel and procurement procedures.

The provisions of ~~Chapter 40 (§ 2-1-110 et seq.) the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2-1 and Chapter 7 the Virginia Public Procurement Act (§ 11-35- 2.2-4300 et seq.) of Title 11 of the Code of Virginia~~ this title shall not apply to the Authority in the exercise of any power conferred under this ~~chapter~~ article.

DRAFTING NOTE: Technical corrections only.

Article 6.

Virginia Public Building Authority.

~~§ 2-1-234.10 2.2-2260.~~ Title of article Short title; definition.

A. This article may be cited as Virginia Public Building Authority Act of 1981.

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

"Construction" or "to construct" means acquisition and construction, all in such manner as may be deemed desirable.

1 "Cost" means as applied to a project financed under the provisions of this article, the sum total of all costs
2 reasonable and necessary for carrying out all works and undertakings necessary or incident to accomplish a project
3 including, but not limited to the cost of all necessary developmental, planning and feasibility studies, surveys, plans
4 specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any
5 buildings and improvements thereon, including the discharge of any obligations of the vendor of such land, buildings or
6 improvements, site preparation and development including demolition or removal of existing structures, construction, and
7 reconstruction, furnishing of a project, the reasonable cost of financing incurred in the course of the development of a project,
8 carrying charges during construction to the occupancy date, interest on bonds issued to finance a project to a date
9 subsequent to the estimated date of completion of a project, necessary expenses incurred in connection with the initial
10 occupancy of a project, the funding of such funds and accounts as the Authority determines to be reasonable and necessary
11 and the cost of such other items as the Authority determines to be reasonable and necessary.

12 "Fixtures" and "furnishings" means any fixtures, leasehold improvements, equipment, office furniture and furnishings
13 whatsoever necessary or desirable for the use and occupancy of such project, and the terms "to furnish" and "furnishing"
14 means the acquisition and installation of such fixtures, equipment and furnishings.

15 "Improvement" or "to improve" means extension, enlargement, improvement, and renovation, all in such manner as
16 may be deemed desirable.

17 "Personal property" means all items of equipment, fixtures, and furnishings, including items affixed to real property.

18 "Project" means any structure, facility, personal property or undertaking that the Authority is authorized to finance,
19 refinance, construct, improve, furnish, equip, maintain, acquire, or operate under the provisions of this article.

20 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A
21 is § 2.1-234.10 and subsection B is § 2.1-234.11, except the definitions of "Authority," "Board," "Bonds," "Federal agency,"
22 and "Person" from § 2.1-234.11 have been consolidated in a single definitional section located at the beginning of Chapter 22
23 as § 2.2-2200. The Authority's bond counsel has reviewed changes made in this article.

24 ~~§ 2.1-234.11. Definitions.~~

25 ~~The following terms, whenever used or referred to in this article, shall have the following meanings, except in those~~
26 ~~instances where the context clearly indicates otherwise:~~

27 ~~1. The term "Authority" shall mean the body politic and corporate created by this article.~~

28 ~~2. The term "project" shall mean any structure, facility, personal property or undertaking which the Authority~~
29 ~~authorized to finance, refinance, construct, improve, furnish, equip, maintain, acquire, or operate under the provisions of~~
30 ~~this article.~~

31 ~~3. The term "board" shall mean the governing body of the Authority.~~

32 ~~4. The term "person" shall mean and include natural persons, firms, associations, corporations, business trusts,~~
33 ~~partnerships, and public bodies.~~

34 ~~5. The term "federal agency" shall mean and include the United States of America, the President of the United~~
35 ~~States of America, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created,~~
36 ~~designated, or established by the United States of America.~~

37 ~~6. The term "bonds" shall mean and include the notes, bonds, and other evidences of indebtedness or obligations~~
38 ~~which the Authority is authorized to issue pursuant to this article.~~

39 ~~7. The term "construction" shall mean and include acquisition and construction, and the term "to construct" shall~~
40 ~~mean and include to acquire and to construct all in such manner as may be deemed desirable.~~

41 ~~8. The term "improvement" shall mean and include extension, enlargement, improvement, and renovation and the~~
42 ~~term "to improve" shall mean and include to extend, to enlarge, to improve, and to renovate all in such manner as may be~~
43 ~~deemed desirable.~~

44 ~~9. The terms "fixtures" and "furnishings" shall mean and include any fixtures, leasehold improvements, equipment,~~
45 ~~office furniture and furnishings whatsoever as may be deemed necessary or desirable for the use and occupancy of such~~
46 ~~project, and the terms "to furnish" and "furnishing" shall mean and include the installation of such fixtures, equipment and~~
47 ~~furnishings.~~

48 ~~10. The term "cost" as applied to a project financed under the provisions of this article shall mean the sum total of all~~
49 ~~costs as are reasonable and necessary for carrying out all works and undertakings necessary or incident to accomplish a~~
50 ~~project, including, without limitation because of enumeration, the cost of all necessary developmental, planning and feasibility~~
51 ~~studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of~~
52 ~~acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the vendor of~~
53 ~~such land, buildings or improvements, site preparation and development including demolition or removal of existing~~
54 ~~structures, construction, and reconstruction, the reasonable cost of financing incurred in the course of the development of a~~
55 ~~project, carrying charges during construction to the occupancy date, interest on bonds issued to finance a project to a date~~
56 ~~subsequent to the estimated date of completion of a project, necessary expenses incurred in connection with the~~

1 occupancy of a project, the funding of such funds and accounts as the Authority determines to be reasonable and necessary
2 and the cost of such other items as the Authority determines to be reasonable and necessary.

3 11. The terms "Commonwealth" or "state" shall mean the Commonwealth of Virginia and any agency or department
4 thereof.

5 12. The term "personal property" shall mean and include all items of equipment, fixtures, and furnishings, including
6 items affixed to real property.

7 **DRAFTING NOTE:** Technical corrections. This section has been merged with proposed § 2.2-2260 as subsection B, except
8 that the definitions of "Authority," "Board," "Bonds," "Federal agency," and "Person" from this section have been consolidated
9 in a single definitional section located at the beginning of Chapter 22 as § 2.2-2200. The Authority's Bond Counsel has
10 reviewed changes made in this article.

11 § 2.1-234.12 2.2-2261. Virginia Public Building Authority created; purpose; membership; terms; expenses; vacancies
12 staff.

13 There is created a political subdivision of the Commonwealth to be known as the "Virginia Public Building Authority."
14 The Authority is created for the purpose of constructing, improving, furnishing, maintaining, acquiring, financing, refinancing,
15 and operating public buildings for the use of the Commonwealth (heretofore or hereafter constructed), state arsenals,
16 armories, and military reserves, state institutions of every kind and character (heretofore and hereafter constructed), additions
17 and improvements to land grant colleges, state colleges, universities and medical colleges, and the purchase of lands for
18 rehabilitation purposes in connection with state institutions and for use of state colleges, and museum facilities for a trust
19 instrumentality of the United States, and the purchase of lands for the development of public buildings that may be authorized
20 by the General Assembly in the future, the acquisition of items of personal property for the use of the Commonwealth, and the
21 financing or refinancing of reimbursements to localities or regional jail authorities of all or any portion of the Commonwealth's
22 share of the costs for jail projects made pursuant to §§ 53.1-80, 53.1-81, 53.1-82, or § 53.1-95.19, and the refinancing of (i)
23 bonds issued by other state and local authorities or political subdivisions of the Commonwealth where such bonds are
24 secured by a lease or other payment agreement with the Commonwealth or (ii) the Commonwealth's obligations under such
25 leases or payment agreements (any and all of the foregoing being herein called "projects"), the purpose and intent of this
26 article being to benefit the people of the Commonwealth by, among other things, increasing their commerce and prosperity.

27 The Authority shall be comprised of the State Treasurer or his designee, the State Comptroller, and five additional
28 members appointed by the Governor, subject to confirmation by the General Assembly, if in session when such appointments
29 are made, and if not in session, at its first session subsequent to such appointment, who shall serve at the pleasure of the
30 Governor, are hereby created a body corporate and politic, constituting a public corporation and governmental instrumentality
31 by the name of the "Virginia Public Building Authority." Unconfirmed appointments shall expire thirty days after the convening
32 of the General Assembly. Such members—Members of the Authority shall be entitled to no compensation for their services as
33 members, but shall be entitled to reimbursement—reimbursed for all reasonable and necessary expenses incurred in
34 connection with the performance—the discharge of their duties as members as provided in § 2.2-2825 (2.1-20.10). The term of
35 each member appointed by the Governor shall be five years; provided, however, that of the members first appointed, one
36 shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two
37 years, and one for a term of one year. Any vacancy happening among the appointed members of the Authority shall be filled
38 by appointment by the Governor, subject to confirmation by the General Assembly.

39 Vacancies in the membership of the Authority shall be filled by appointment for the unexpired portion of the term.
40 The Governor shall designate one member of the Authority as chairman. The Department of the Treasury shall serve as staff
41 to the Authority.

42 **DRAFTING NOTE:** Technical corrections. The first paragraph comes from the first full sentence of existing § 2.1-234.13.
43 References to the terms of the initial members of the Authority have been deleted as obsolete.

44 § 2.1-234.25 2.2-2262. ~~Governing body of Authority~~ Board of directors.

45 The powers of the Authority shall be exercised by a governing body consisting of the members of the Authority
46 acting as a board. The ~~board~~ Board shall elect from ~~their number~~ its membership a vice-chairman, a ~~treasurer~~ and a
47 secretary. In the absence of the chairman, the vice chairman shall exercise the powers and duties thereof. The offices of
48 secretary and treasurer may be combined. The ~~board~~ Board may elect such other officers from its own membership or from
49 without as it deems appropriate who need not be a member of the Board.

50 Four members shall constitute a quorum of the ~~board~~ Board for the purpose of organizing the Authority—and
51 conducting the ~~its~~ business thereof, and for all other purposes, and all. All actions shall be taken by vote of a majority of the
52 members of the ~~Authority~~ Board, unless in any case the ~~Authority~~ bylaws shall require a larger number.

53 The ~~board~~ Board shall have full authority to manage the properties and business of the Authority, and to prescribe,
54 amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Authority may be
55 conducted, and the powers granted to it may be exercised—and embodied. The ~~board~~ Board may assign to the Treasury
56 Board or the State Treasurer such powers and duties as it may deem ~~deems~~ proper.

1 DRAFTING NOTE: Technical corrections only.

2 ~~§ 2-1 234.13 2.2-2263.~~ Purposes and general powers Powers and duties of Authority; limitations.

3 The Authority is created for the purpose of constructing, improving, furnishing, maintaining, acquiring, financing,
4 refinancing, and operating public buildings for the use of the Commonwealth (heretofore or hereafter constructed), state
5 arsenals, armories, and military reserves, state institutions of every kind and character (heretofore and hereafter constructed),
6 additions and improvements to land grant colleges, state colleges, universities and medical colleges, and the purchase of
7 lands for rehabilitation purposes in connection with state institutions and for use of state colleges, and museum facilities for a
8 trust instrumentality of the United States, and the purchase of lands for the development of public buildings which may be
9 authorized by the General Assembly in the future, the acquisition of items of personal property for the use of the
10 Commonwealth, and the financing or refinancing of reimbursements to localities or regional jail authorities of all or any portion
11 of the Commonwealth's share of the costs for jail projects made pursuant to §§ 53.1-80, 53.1-81, 53.1-82, or § 53.1-05.10,
12 and the refinancing of (i) bonds issued by other state and local authorities or political subdivisions of the Commonwealth
13 where such bonds are secured by a lease or other payment agreement with the Commonwealth or (ii) the Commonwealth's
14 obligations under such leases or payment agreements (any and all of the foregoing being herein called "projects"), the
15 purpose and intent of this article being to benefit the people of the Commonwealth by, among other things, increasing their
16 commerce and prosperity. The Authority shall not undertake or finance or refinance any project or projects which are not
17 specifically included in a bill or resolution passed by a majority of those elected to each house of the General Assembly,
18 authorizing such project or projects or the reimbursement of all or any portion of the Commonwealth's share of the costs of
19 such project or projects and, as to any project relating to a state institution of higher education, not specifically designated by
20 the board of visitors of that institution as a project to be undertaken by the Authority.

21 A. The Authority is hereby granted and shall have and may exercise all powers necessary or convenient for the
22 carrying out of the aforesaid its purposes, including, but without limiting the generality of the foregoing not limited to, the
23 following rights and powers to:

- 24 1. ~~To have~~ Have perpetual existence as a corporation.
- 25 2. ~~To sue~~ Sue and be sued, implead and be impleaded, complain and defend in all courts.
- 26 3. ~~To adopt~~ Adopt, use, and alter at will a corporate seal.
- 27 4. ~~To acquire~~ Acquire, purchase, hold and use any property, real, personal or mixed, tangible or intangible, or any
28 interest therein necessary or desirable for carrying out the purposes of the Authority; ~~without limitation of the foregoing, to~~
29 lease as lessee, with the approval of the Governor, any property, real, personal or mixed, or any interest therein for a term not
30 exceeding ninety-nine years at a nominal rental or at such annual rental as may be determined; with the approval of the
31 Governor, ~~to lease as lessor to the Commonwealth of Virginia and any city, county, town or other political subdivision, or any~~
32 agency, department, or public body of the Commonwealth, or land grant college, any project at any time constructed by the
33 Authority and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the
34 Authority, whether wholly or partially completed; with the approval of the Governor, ~~to sell, transfer and convey to the~~
35 Commonwealth of Virginia, any project at any time constructed by the Authority; and, with the approval of the Governor, ~~to~~
36 sell, transfer and convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
37 acquired by the Authority.
- 38 5. ~~To acquire~~ Acquire by purchase, lease, or otherwise, and ~~to construct, improve, furnish, maintain, repair, and~~
39 operate projects.
- 40 6. ~~To make~~ Adopt bylaws for the management and regulation of its affairs.
- 41 7. ~~To fix~~ Fix, alter, charge, and collect rates, rentals, and other charges for the use of the facilities of, or for the
42 services rendered by, the Authority, or projects thereof, at reasonable rates to be determined by it for the purpose of providing
43 for the payment of the expenses of the Authority, the construction, improvement, repair, furnishing, maintenance, and
44 operation of its facilities and properties, the payment of the principal of and interest on ~~its obligations~~ bonds, and to fulfill the
45 terms and provisions of any agreements made with the purchasers or holders of any such ~~obligations~~ bonds.
- 46 8. ~~To borrow~~ Borrow money; make and issue ~~negotiable notes, bonds, and other evidences of indebtedness or~~
47 ~~obligations (herein called "bonds")~~ of the Authority and such bonds as the Authority may, ~~from time to time~~, determine to issue
48 for the purpose of refunding bonds previously issued by the Authority; ~~to secure the payment of all bonds, or any part thereof,~~
49 by pledge or deed of trust of all or any of its revenues, rentals, and receipts; ~~to make such agreements with the purchasers or~~
50 holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority ~~shall~~
51 ~~deem~~ deems advisable; and in general, ~~to provide for the security for said~~ the bonds and the rights of holders thereof.

52 The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each
53 year containing, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30.
54 The annual report shall be distributed in accordance with the provisions of ~~§ 2-1-467~~ 2.2-1127.

55 9. ~~To make~~ Make contracts of every name and nature, and to execute all instruments necessary or convenient for
56 ~~the carrying on of~~ to carry out its business.

10. ~~Without limitation of the foregoing, to borrow~~ Borrow money and accept grants from, and ~~to enter into contracts,~~
leases or other transactions with, any federal agency.

11. ~~To have~~ Have the power of eminent domain.

12. ~~To pledge~~ Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all
or any of the ~~obligations~~ bonds of the Authority.

13. ~~To do~~ Do all acts and things necessary or convenient to carry out the powers granted to it by ~~this article or any~~
~~other acts law.~~

14. ~~To acquire~~ Acquire, by assignment from the Commonwealth or the Virginia Retirement System, all contracts,
including those ~~which that~~ are not completed, which involve constructing, improving, furnishing, maintaining, and operating
the structures, facilities, or undertakings similar to those designated herein as projects.

15. ~~To enter~~ Enter into contractual agreements with localities or regional jail authorities undertaking a jail project for
which the financing or refinancing of reimbursements of all or any portion of the Commonwealth's share of the costs of such
project will be made pursuant to subsection A 3 of § 53.1-82.2.

B. The Authority shall not undertake or finance or refinance any projects that are not specifically included in a bill or
resolution passed by a majority of those elected to each house of the General Assembly, authorizing such projects or the
reimbursement of all or any portion of the Commonwealth's share of the costs of such projects and, as to any project relating
to a public institution of higher education in Virginia, not specifically designated by the board of visitors of that institution as a
project to be undertaken by the Authority.

C. Except as otherwise provided by law, when projects are to be constructed, improved, furnished, maintained,
repaired or operated for the use of any department of the Commonwealth, ~~as hereinbefore listed in this section,~~ no plans or
specifications therefor shall be presented for quotations or bids until ~~such the~~ plans and specifications ~~shall~~ have been
submitted to and approved by the Department of General Services and any other department of the Commonwealth having
any jurisdiction over the projects, so that the project will conform to standards established by such departments.

DRAFTING NOTE: Technical corrections. The first sentence of this section has been moved to proposed § 2.2-2261 as the
first paragraph in that section. Also, the second sentence of this section now appears subsection B in this proposed section.

§ 2.1-234.14 2.2-2264. Revenue bonds generally.

The Authority is ~~heroby authorized, by and may,~~ with the consent of the Governor, ~~to provide for the issuance, at one
time or from time to time,~~ of revenue bonds of the Authority for the purpose of paying all or any part of the cost of any one or
more projects ~~or of any portion or portions thereof.~~ The principal of and the interest on such bonds shall be payable solely
from the funds provided in this article for such payment. Any bonds of the Authority issued pursuant to this article shall not
constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, and shall so state on their
face. Neither the members of the Authority nor any person executing ~~such the~~ bonds shall be liable personally ~~thereon~~ by
reason of the issuance thereof. The bonds of each issue shall be dated, shall bear interest, shall mature at such time ~~or time~~
not exceeding forty years from their date ~~or date,~~ as ~~may be determined~~ by the Authority, and may be made redeemable
before maturity, at the option of the Authority, at such price ~~or prices~~ and under such terms and conditions as ~~may be fixed~~
determined by the Authority, ~~at such price or prices and under such terms and conditions as may be fixed by the Authority~~
prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including
any interest coupons to be attached thereto, and shall fix the ~~denomination or denominations~~ of the bonds and the ~~place or~~
places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth.
In case any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or coupons shall
cease to be such officer before the delivery of ~~such the~~ bonds, such signature or such facsimile shall nevertheless be valid
and sufficient for all purposes ~~the same~~ as if he had remained in office until such delivery. The bonds may be issued in
coupon or in registered form or both, as the Authority may determine, and provision may be made for the registration of any
coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any
bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may
sell such bonds in ~~such a~~ manner, either at public or private sale, and for such price as it ~~may determine~~ determines will best
effect the purposes of this ~~chapter~~ article.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the projects for which
such bonds shall have been issued, and shall be disbursed in ~~such the~~ manner and under ~~such the~~ restrictions, if any, ~~as the~~
Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement ~~hereinafter~~
~~mentioned~~ securing the ~~same~~ bonds. If the proceeds of the bonds of any issue, by error of estimates or otherwise, ~~shall be is~~
less than ~~such the~~ cost, additional bonds may ~~in like manner~~ be issued to provide the amount of such deficit, and, unless
otherwise provided in the resolution authorizing the issuance of ~~such the~~ bonds or in the trust agreement securing the
~~same~~ bonds, shall be deemed to be ~~of the same issue and shall be entitled to payment from the same fund without preference~~
or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be
deposited to the credit of the sinking fund for such bonds, or may be applied to the payment of the cost of any additional
~~project or projects.~~

1 Prior to the preparation of definitive bonds, the Authority may, under like restrictions issue interim receipt
2 temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed
3 and are available for delivery. The Authority may also provide for the replacement of any bonds ~~which that~~ shall become
4 mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this ~~chapter article~~ without obtaining the
5 consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other
6 proceedings or the happening of any other conditions or things than those proceedings, conditions or things ~~which that~~ are
7 specifically required by this article.

8 **DRAFTING NOTE:** Technical corrections only.

9 § 2-1-234.15 2.2-2265. Trust agreement securing bonds.

10 In the discretion of the Authority any bonds issued under the provisions of this article may be secured by a trust
11 agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the
12 powers of a trust company within or without the Commonwealth. ~~Such The~~ trust agreement or the resolution providing for the
13 issuance of ~~such the~~ bonds may pledge or assign the revenues to be received, but shall not convey or mortgage any project
14 or any part thereof. ~~Such The~~ trust agreement or resolution providing for the issuance of such bonds may contain such
15 provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not
16 in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the
17 acquisition, construction, establishment, improvement, extension, enlargement, maintenance, repair, operation and insurance
18 of the project ~~or projects~~ in connection with which ~~such the~~ bonds ~~shall~~ have been authorized, the rates and fees to be
19 charged, the custody, safeguarding and application of all moneys, and conditions or limitations with respect to the issuance of
20 additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which
21 may act as depository of the proceeds of bonds or of revenues to furnish ~~such the~~ indemnifying bonds or to pledge ~~such the~~
22 securities ~~as may be~~ required by the Authority. Any such trust agreement may set forth the rights of action by bondholders. In
23 addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority ~~may~~
24 ~~deem deems~~ reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions
25 of ~~such a~~ trust agreement or resolution may be treated as a part of the cost of the operation of the project ~~or projects~~.

26 **DRAFTING NOTE:** Technical corrections only.

27 § 2-1-234.16 2.2-2266. Rents, fees and charges for financing or refinancing, services or use of facilities; use and
28 disposition of revenues.

29 The Authority ~~is hereby authorized to may~~ fix, revise, charge, and collect rates, fees, and other charges for
30 financing or refinancing of, the use of or for the services and facilities furnished by each project and the different parts thereof,
31 and to contract with any agency, commission, political subdivision or other entity desiring the use of any part thereof, and to
32 fix the terms, conditions, rents, and rates of charges for such use or financing or refinancing. Such rates, fees, and other
33 charges shall be ~~so~~ fixed and adjusted so that revenues of the Authority, together with any other available funds, will be
34 sufficient at all times to pay (i) the cost of maintaining, repairing and operating such project ~~or projects~~ and (ii) the principal of
35 and the interest on ~~such the~~ related bonds as ~~the same shall they~~ become due and payable, and to create reserves for such
36 purposes. Such rates, fees, and other charges shall not be subject to supervision or regulation by any other commission,
37 board, bureau, or agency of the Commonwealth. The revenues derived from the project ~~or projects~~ in connection with which
38 the bonds ~~shall~~ have been issued, except such part thereof as may be necessary to pay ~~such the~~ cost of maintenance, repair
39 and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such
40 bonds or in the trust agreement securing the ~~same~~ bonds, shall be set aside at such regular intervals as may be provided in
41 ~~such the~~ resolution or ~~such~~ trust agreement in a sinking fund which is ~~herby~~ pledged to, and charged with, the payment of
42 the principal of and the interest on such bonds as ~~the same shall they~~ become due, and the redemption price or the purchase
43 price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the
44 pledge is made, the revenues or other moneys so pledged and thereafter received by the Authority shall immediately be
45 subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be
46 valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority,
47 irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is
48 created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of
49 such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of ~~such the~~ bonds or of ~~such the~~
50 trust agreement. Except as may otherwise be provided in ~~such the~~ resolution or ~~such~~ trust agreement, such sinking fund shall
51 be a fund for all such bonds without distinction or priority of one over another.

52 **DRAFTING NOTE:** Technical corrections only.

53 § 2-1-234.17 2.2-2267. Moneys received deemed trust funds.

54 All moneys received pursuant to the authority of this article, whether as proceeds from the sale of bonds or as
55 revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. The resolution
56 authorizing the bonds of any issue or the trust agreement securing ~~such the~~ bonds shall provide that any officer with whom
57 any bank or trust company with which, such moneys ~~shall be are~~ deposited shall act as a trustee of ~~such the~~ money.

1 | shall hold and apply the same for the purposes hereof, subject to ~~such the~~ regulations as this article and ~~such the~~ resolution
2 | or trust agreement may provide.

3 | **DRAFTING NOTE:** Technical corrections only.

4 | § ~~2-1-234.18~~ 2.2-2268. Proceedings by bondholder or trustee to enforce rights.

5 | Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the
6 | trustee under any trust agreement, except to the extent the rights herein given may be restricted by ~~such the~~ trust agreement
7 | or the resolution authorizing the issuance of ~~such the~~ bonds, may, either at law or in equity, by suit, action, mandamus or
8 | other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under
9 | ~~such the~~ trust agreement or resolution, and may enforce and compel the performance of all duties required by this article or
10 | by ~~such the~~ trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing,
11 | charging, and collecting of rates, fees, and other charges.

12 | **DRAFTING NOTE:** Technical corrections only.

13 | § ~~2-1-234.19~~ 2.2-2269. Bonds made securities for investment and deposit.

14 | Bonds issued by the Authority under the provisions of this article ~~are hereby made shall be~~ securities in which all
15 | public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust
16 | companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may
17 | properly and legally invest funds, including capital in their control or belonging to them. Such bonds ~~are hereby made shall be~~
18 | securities ~~which that~~ may properly and legally be deposited with and received by any state or municipal officer or any agency
19 | or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the
20 | Commonwealth is now or may ~~hereafter~~ be authorized by law.

21 | **DRAFTING NOTE:** Technical corrections only.

22 | § ~~2-1-234.20~~ 2.2-2270. Revenue refunding bonds; bonds for refunding and for cost of additional projects.

23 | The Authority ~~is hereby authorized to may~~ provide for the issuance of revenue refunding bonds of the Authority for
24 | the purpose of refunding any bonds then outstanding which ~~shall~~ have been issued under the provisions of this article or by
25 | other state and local authorities or political subdivisions of the Commonwealth where such bonds are secured by a lease or
26 | other payment agreement with the Commonwealth, including the payment of any redemption premium thereon and any
27 | interest accrued or to accrue to the date of redemption of ~~such the~~ bonds, and, if deemed advisable by the Authority, for the
28 | additional purpose of constructing improvements, extensions, or enlargements of the project ~~or projects~~ in connection with
29 | which the bonds to be refunded ~~shall~~ have been issued. The Authority ~~is further authorized to may~~ provide by resolution for
30 | the issuance of its revenue bonds for the combined purpose of (i) refunding any bonds then outstanding ~~which that shall~~ have
31 | been issued under the provisions of this article or by other state and local authorities or political subdivisions of the
32 | Commonwealth where such bonds are secured by a lease or other payment agreement with the Commonwealth, including
33 | the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of ~~such the~~
34 | bonds, and (ii) paying all or any part of the cost of any additional project ~~or projects~~ or any portion ~~or portions~~ thereof. The
35 | issuance of ~~such the~~ bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties
36 | and obligations of the Authority ~~in respect of the same~~ shall be governed by the provisions of this article insofar as ~~the same~~
37 | they may be applicable.

38 | **DRAFTING NOTE:** Technical corrections only.

39 | § ~~2-1-234.23~~ 2.2-2271. Grants or loans of public or private funds.

40 | The Authority ~~is authorized to may~~ accept, receive, receipt for, disburse, and expend federal and state moneys and
41 | other moneys, public or private, including proceeds of the Authority's bonds, made available by grant or loan or both, to
42 | accomplish, in whole or in part, any of the purposes of this article. All federal moneys accepted under this section shall be
43 | accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are
44 | consistent with state law; and all state moneys accepted under this section shall be accepted and expended by the Authority
45 | upon such terms and conditions as are prescribed by the Commonwealth.

46 | **DRAFTING NOTE:** Technical corrections only.

47 | § ~~2-1-234.26~~ 2.2-2272. Moneys of Authority; audit.

48 | All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such
49 | moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more
50 | special accounts, and each of such special accounts shall be continuously secured by a pledge of direct obligations of the
51 | United States ~~of America~~ or of the Commonwealth, having an aggregate market value, exclusive of accrued interest, at all
52 | times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer or
53 | be held by a trustee or agent satisfactory to the Authority. All banks and trust companies are authorized to give such security

1 for such deposits. The moneys in such accounts shall be paid out on the warrant or other order of the treasurer of the
2 Authority, or of such other ~~person or persons~~ as the Authority may authorize to execute such warrants or orders.

3 The Auditor of Public Accounts ~~of the Commonwealth, and or~~ his legally authorized representatives ~~are hereby~~
4 ~~authorized and empowered from time to time to~~ may examine the accounts and books of the Authority, including its receipts,
5 disbursements, contracts, leases, sinking funds, investments, and any other matters relating to its finances, operation and
6 affairs.

7 **DRAFTING NOTE:** Technical corrections only.

8 § 2-1-234.21 2.2-2273. Contracts, leases and other arrangements.

9 A. In connection with the operation of a facility owned or controlled by the Authority, the Authority may enter into
10 contracts, leases, and other arrangements with any person ~~or persons~~ (i) granting the privilege of using or improving the
11 facility or any portion or facility thereof or space therein consistent with the purposes of this article; (ii) conferring the privilege
12 of supplying goods, commodities, things, services, or facilities at the facility; (iii) making available services to be furnished by
13 the Authority or its agents at the facility; and (iv) providing for the payment therefor.

14 In each case the Authority may establish the terms and conditions and fix the charges, rentals, or fee for the
15 privilege or service, which shall be reasonable and uniform for the same class of privilege or service at each facility and shall
16 be established with due regard to the property and improvements used and the expenses of operation to the Authority.

17 B. Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by ~~§ 2-1-234.23~~
18 ~~2.2-2271~~, the Authority may by contract, lease, or other arrangements, upon a consideration fixed by it, grant to any qualified
19 person, for a term not to exceed thirty years, the privilege of operating, as agent of the Authority or otherwise, any facility
20 owned or controlled by the Authority; provided that no person shall be granted any authority to operate a facility other than as
21 a public facility or to enter into any contracts, leases, or other arrangements in connection with the operation of the facility
22 ~~which that~~ the Authority might not have undertaken under subsection A ~~of this section~~.

23 C. In connection with a project leased to or financed or refinanced for a trust instrumentality of the United States
24 where payments or contributions by the Commonwealth and any political subdivision, together with amounts pursuant to an
25 agreement with such trust instrumentality to pay rent or other amounts, are sufficient to pay the principal of and interest on the
26 Authority's bonds issued to finance or refinance such project, the Authority may agree that such trust instrumentality shall
27 assume all responsibility for the acquisition, construction, operation, maintenance, and repair of the project and may further
28 agree that when the principal of all such bonds of the Authority and the interest thereon have been paid in full or provision
29 made therefor satisfactory to the Authority, the trust instrumentality may acquire the Authority's interest in such project without
30 payment of additional consideration.

31 **DRAFTING NOTE:** Technical corrections only.

32 § 2-1-234.22 2.2-2274. Resolutions, rules and regulations, etc.

33 The Authority ~~is authorized to~~ may adopt, amend, and repeal such reasonable resolutions, rules, regulations, and
34 orders as it ~~shall deem~~ deems necessary for the management, government, and use of any facility owned by it or under its
35 control. No rule, regulation, order, or standard prescribed by the Authority shall be inconsistent with, or contrary to, any law of
36 ~~this the~~ Commonwealth or act of the Congress of the United States or any regulation ~~promulgated~~ adopted or standard
37 established pursuant thereto. The Authority shall keep on file at the principal office of the Authority for public inspection a
38 copy of all its rules and regulations.

39 **DRAFTING NOTE:** Technical corrections only.

40 § 2-1-234.27 2.2-2275. Competition in award of contracts; contractors to give surety; terms of contracts.

41 If any project or any portion thereof or any improvement thereof shall be constructed, or furnished pursuant to a
42 contract and the estimated cost thereof exceeds \$10,000, such contract with the Authority shall be awarded to the lowest
43 responsible bidder after advertisement for bids. The Authority may make rules and regulations for the submission of bids and
44 the construction, furnishing, or improvement of any project or portion thereof to be owned by the Authority, the
45 Commonwealth or any agency, institution, or department thereof. No contract shall be entered into by the Authority for
46 construction, furnishing, or improvement of any project, or portion thereof, or for the purchase of materials, unless the
47 contractor ~~shall give~~ gives an undertaking with a sufficient surety ~~or sureties~~ approved by the Authority, and in an amount
48 fixed by the Authority in accordance with ~~§ 41-58 2.2-4337~~, for the faithful performance of the contract, ~~and such~~. Such
49 contract shall be accompanied by an additional bond for the protection of those who furnish labor and material or rental
50 equipment for such amount and subject to the same terms and conditions as established by the Authority in accordance with
51 ~~§ 41-58 2.2-4337~~. All construction contracts shall provide, among other things, that the person or corporation entering into
52 such contract with the Authority will pay for all materials furnished, rental equipment used and services rendered for the
53 performance of the contract, and that any person or corporation furnishing such materials, rental equipment or rendering such
54 services may maintain an action to recover for the same against the obligor in the undertaking as though such person or
55 corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. The
56 additional bond shall be conditioned upon the prompt payment of actual equipment rentals and shall not be conditioned upon

or guarantee payment of equipment rentals, all or any part of which, directly or indirectly, apply on the purchase price of such equipment under the terms of a bailment lease or conditional sales contract or by any other arrangement by which title to the equipment will be transferred to the contractor and the rentals form any part of the consideration.

Subject to the ~~aforsaid~~ foregoing, the Authority may, but without intending by this provision to limit any powers of ~~such the~~ Authority, enter into and carry out such contracts, or establish or comply with such rules and regulations concerning labor and materials to rental equipment and other related matters in connection with any project, or portion thereof, as the Authority ~~may deem~~ deems desirable.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-234.28~~ 2.2-2276. Eminent domain; right of entry.

The Authority is ~~heroby~~ vested with the power of eminent domain and may exercise ~~the same it~~ for the purposes set forth in this article. If the owner, lessee, or occupier of any property to be condemned or otherwise acquired ~~shall refuse~~ refuses to remove his property therefrom or give up possession ~~thereof~~, the Authority may proceed to obtain possession in any manner provided by law.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-234.28-1~~ 2.2-2277. Jurisdiction of suits against Authority; service of process.

The Circuit Court of the City of Richmond shall have exclusive jurisdiction of any suit brought in Virginia against the Authority, and process in any such suit shall be served either on the State Treasurer or the chairman of the Authority.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-234.24~~ 2.2-2278. Exemption from taxes or assessments.

The exercise of the powers granted by this article ~~will shall~~ be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the Authority ~~will constitute~~ constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, and any bonds issued under the provisions of this article, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation within the Commonwealth; ~~provided that the~~ The exemption hereby granted in this section shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

DRAFTING NOTE: Technical corrections only.

Article 7.

Virginia Small Business Financing Authority.

~~§ 0-107~~ 2.2-2279. Short title; definitions.

A. This chapter article shall be known and may be cited as the "Virginia Small Business Financing Act."

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

"Cost," as applied to the eligible small business, means the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of demolishing, removing, rehabilitating or relocating any buildings or structures on lands acquired, including the cost of acquiring any such lands to which such buildings or structures may be moved, rehabilitated or relocated; the cost of all labor, materials, machinery and equipment, financing charges, letter of credit or other credit enhancement fees, insurance premiums, interest on all bonds prior to and during construction or acquisition and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction or acquisition, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, commissions, guaranty fees, other expenses necessary or incidental to determining the feasibility or practicality of constructing, financing or operating a project of an eligible small business; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions, improvements and replacements, and such other expenses as may be necessary or incidental to the construction or acquisition of a project of an eligible small business or the financing of such construction, acquisition or expansion and the placing of a project of an eligible small business in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the Authority for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction or acquisition of a project of an eligible small business may be regarded as a part of the cost of a project of an eligible small business and may be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued therefor.

"Eligible small business" means any person engaged in one or more small business enterprises in the Commonwealth that satisfies one or more of the following requirements: (i) has received \$10 million or less in annual gross

1 income under generally accepted accounting principles for each of its last three fiscal years or lesser time period if it has
2 been in existence less than three years, (ii) has fewer than 250 employees, (iii) has a net worth of \$2 million or less,
3 such other satisfactory requirements as the Board shall determine from time to time if it finds and determines such person
4 in need of its assistance.

5 "Federal Act" means the Small Business Investment Act of 1958, 15 U.S.C. § 661 et seq., as amended from time to
6 time.

7 "Indenture" means any trust agreement, deed of trust, mortgage or other security agreement under which bonds
8 authorized pursuant to this article shall be issued or secured.

9 "Lender" means any federal- or state-chartered bank, federal land bank, production credit association, bank for
10 cooperatives, federal- or state-chartered savings institution, building and loan association, small business investment
11 company or any other financial institution qualified within the Commonwealth to originate and service loans, including but not
12 limited to insurance companies, credit unions, investment banking or brokerage companies and mortgage loan companies.

13 "Loan" means any lease, loan agreement or sales contract as hereinafter defined:

14 (i) "Lease" means any lease containing an option to purchase the project or projects of the eligible small business
15 being financed for a nominal sum upon payment in full, or provision thereof, of all bonds issued in connection with the eligible
16 small business and all interest thereon and principal of and premium, if any, thereon and all other expenses in connection
17 therewith.

18 (ii) "Loan agreement" means an agreement providing for a loan of proceeds from the sale and issuance of bonds by
19 the Authority or by a lender with which the Authority has contracted to loan such proceeds to one or more contracting parties
20 to be used to pay the cost of one or more projects of an eligible small business and providing for the repayment of such loan
21 including but not limited to all interest thereon, and principal of and premium, if any, thereon and all other expenses in
22 connection therewith, by such contracting party or parties and which may provide for such loans to be secured or evidenced
23 by one or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting party or parties,
24 delivered to the Authority or to a trustee under an indenture pursuant to which the bonds were issued.

25 (iii) "Sales contract" means a contract providing for the sale of one or more projects of an eligible small business to
26 one or more contracting parties and includes but is not limited to a contract providing for payment of the purchase price
27 including but not limited to all interest thereon, and principal of and premium, if any, thereon and all other expenses in
28 connection therewith, in one or more installments. If the sales contract permits title to a project being sold to an eligible small
29 business to pass to such contracting party or parties prior to payment in full of the entire purchase price, it also shall provide
30 for such contracting party or parties to deliver to the Authority or to the trustee under the indenture pursuant to which
31 bonds were issued, one or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting
32 party or parties providing for timely payments of the purchase price thereof.

33 "Municipality" means any county or incorporated city or town in the Commonwealth.

34 "Revenue Code" means the Internal Revenue Code of 1954, as amended.

35 "Revenues" means any and all fees, rates, rentals, profits and receipts collected by, payable to, or otherwise derived
36 by, the Authority, and all other moneys and income of whatsoever kind or character collected by, payable to, or otherwise
37 derived by, the Authority in connection with loans to any eligible small business in furtherance of the purposes of this article.

38 "Small business enterprise" means (i) any industry for the manufacturing, processing, assembling, storing,
39 warehousing, servicing, distributing, or selling of any products of agriculture, mining or industry or professional services; (ii)
40 commercial enterprises making sales or providing services to industries described in clause (i) hereof; (iii) enterprises for
41 research and development, including but not limited to scientific laboratories; or (iv) such other businesses as will be in
42 furtherance of the public purposes of this article.

43 "Statewide Development Company" means the corporation chartered under this article for purposes of qualification
44 as a state development company as such term is defined in the Federal Act.

45 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A
46 is § 9-197 and subsection B is § 9-199, except that the definitions of "Authority," "Board," "Bonds," and "Person" from this
47 section have been consolidated in a single definitional section located at the beginning of Chapter 22 as § 2.2-2200. The
48 definition of "umbrella bonds" has been deleted because it does not actually provide a definition.

49 §-9-198 2.2-2280. Legislative findings; Declaration of public purpose; Authority created.

50 A. The General Assembly finds and determines that (i) there exists in the Commonwealth a need to assist small
51 business in the Commonwealth in obtaining financing for new business or in the expansion of existing business in order to
52 promote and develop industrial development and to further the long-term economic development of the Commonwealth
53 through the improvement of its tax base and the promotion of employment. ~~The General Assembly finds and determines that~~
54 and (ii) it is necessary to create a governmental body to provide financial assistance to small business in the Commonwealth
55 by providing loans, guarantees, insurance and other assistance to small business, thereby encouraging the investment of
56 private capital in small business in the Commonwealth. The creation of this governmental body to assist in such matters is
57 essential to the industrial development of the Commonwealth. In making these determinations, the General Asser

1 considered and affirmatively expresses its policy to assist small businesses in Virginia, acknowledging that this determination
2 has and will affect competition.

3 It is hereby further declared that all of the foregoing are public purposes and that the activities of the Authority will
4 serve a public purpose in that they will promote industry, develop trade and increase employment opportunities for the benefit
5 of the inhabitants of the Commonwealth, either through the increase of commerce or through the promotion of safety, health,
6 welfare, convenience or prosperity; and that the necessity of enacting the provisions herein set forth is in the public interest
7 and is hereby so declared as a matter of express legislative determination.

8 B. The Virginia Small Business Financing Authority is created, with such powers and duties as are set forth in this
9 article, as a public body corporate and as a political subdivision of the Commonwealth. All powers, rights and duties conferred
10 by this article or other provisions of law upon the Authority shall be exercised by the Board.

11 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A
12 is § 9-198 and subsection B is § 9-201. Section 9-198 is not set out in the Code of Virginia, but has been set out here to be
13 consistent with declarations of public purpose found in other Authorities.

14 ~~§ 9-198. Definitions.~~

15 ~~As used in this chapter, unless the context otherwise requires:~~

16 ~~"Authority" shall mean the Virginia Small Business Financing Authority created by this chapter.~~

17 ~~"Board" shall mean the Board of Directors of the Authority.~~

18 ~~"Bonds" shall mean any bonds, refunding bonds, notes, debentures, interim certificates, or any bond, grant, revenue~~
19 ~~anticipation notes or any other evidences of indebtedness of the Authority, whether in temporary or definitive form and~~
20 ~~whether or not exempt from federal taxation.~~

21 ~~"Commonwealth" shall mean the Commonwealth of Virginia.~~

22 ~~"Cost," as applied to the eligible small business, shall mean and shall include without limitation because of~~
23 ~~enumeration the cost of construction; the cost of acquisition of all lands, structures, rights of way, franchises, easements and~~
24 ~~other property rights and interests; the cost of demolishing, removing, rehabilitating or relocating any buildings or structures~~
25 ~~on lands acquired, including the cost of acquiring any such lands to which such buildings or structures may be moved,~~
26 ~~rehabilitated or relocated; the cost of all labor, materials, machinery and equipment, financing charges, letter of credit or other~~
27 ~~credit enhancement fees, insurance premiums, interest on all bonds prior to and during construction or acquisition and, if~~
28 ~~deemed advisable by the Authority, for a period not exceeding one year after completion of such construction or acquisition;~~
29 ~~cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenue,~~
30 ~~commissions, guaranty fees, other expenses necessary or incident to determining the feasibility or practicality of constructing,~~
31 ~~financing or operating a project of an eligible small business; administrative expenses, provisions for working capital, reserves~~
32 ~~for interest and for extensions, enlargements, additions, improvements and replacements, and such other expenses as may~~
33 ~~be necessary or incidental to the construction or acquisition of a project of an eligible small business or the financing of such~~
34 ~~construction, acquisition or expansion and the placing of a project of an eligible small business in operation. Any obligation or~~
35 ~~expense incurred by the Commonwealth or any agency thereof, with the approval of the Authority for studies, surveys,~~
36 ~~borings, preparation of plans and specifications or other work or materials in connection with the construction or acquisition of~~
37 ~~a project of an eligible small business may be regarded as a part of the cost of a project of an eligible small business and may~~
38 ~~be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued therefor.~~

39 ~~"Eligible small business" shall mean any person engaged in one or more small business enterprises in the~~
40 ~~Commonwealth which satisfies one or more of the following requirements: (i) has received \$10 million or less in annual gross~~
41 ~~income under generally accepted accounting principles for each of its last three fiscal years or lesser time period if it has~~
42 ~~been in existence less than three years, (ii) has fewer than 250 employees, (iii) has a net worth of \$2 million or less, or (iv)~~
43 ~~such other satisfactory requirements as the Board shall determine from time to time if it finds and determines such person is~~
44 ~~in need of its assistance.~~

45 ~~"Federal Act" shall mean the Small Business Investment Act of 1958, 15 U.S.C. § 661 et seq., as amended from time~~
46 ~~to time.~~

47 ~~"Indenture" shall mean any trust agreement, deed of trust, mortgage or other security agreement under which bonds~~
48 ~~authorized pursuant to this chapter shall be issued or secured.~~

49 ~~"Lender" shall mean any federally or state chartered bank, federal land bank, production credit association, bank for~~
50 ~~cooperatives, state or federally chartered savings institution, building and loan association, small business investment~~
51 ~~company or any other financial institution qualified within the Commonwealth to originate and service loans, including but not~~
52 ~~limited to insurance companies, credit unions, investment banking or brokerage companies and mortgage loan companies.~~

53 ~~"Loan" shall mean any lease, loan agreement or sales contract as hereinafter defined:~~

54 ~~(i) "Lease" shall mean any lease containing an option to purchase the project or projects of the eligible small~~
55 ~~business being financed for a nominal sum upon payment in full, or provision thereof, of all bonds issued in connection with~~

1 the eligible small business and all interest thereon and principal of and premium, if any, thereon and all other expenses in
2 connection therewith.

3 (ii) "Loan agreement" shall mean an agreement providing for a loan of proceeds from the sale and issuance of bonds
4 by the Authority or by a lender with which the Authority has contracted to loan such proceeds to one or more contracting
5 parties to be used to pay the cost of one or more projects of an eligible small business and providing for the repayment of
6 such loan including but not limited to all interest thereon, and principal of and premium, if any, thereon and all other expenses
7 in connection therewith, by such contracting party or parties and which may provide for such loans to be secured or
8 evidenced by one or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting party
9 or parties, delivered to the Authority or to a trustee under an indenture pursuant to which the bonds were issued.

10 (iii) "Sales contract" shall mean a contract providing for the sale of one or more projects of an eligible small business
11 to one or more contracting parties and includes but is not limited to a contract providing for payment of the purchase price
12 including but not limited to all interest thereon, and principal of and premium, if any, thereon and all other expenses in
13 connection therewith, in one or more installments. If the sales contract permits title to a project being sold to an eligible small
14 business to pass to such contracting party or parties prior to payment in full of the entire purchase price, it also shall provide
15 for such contracting party or parties to deliver to the Authority or to the trustee under the indenture pursuant to which the
16 bonds were issued, one or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting
17 party or parties providing for timely payments of the purchase price thereof.

18 "Municipality" shall mean any county or incorporated city or town in the Commonwealth.

19 "Person" shall mean a natural person, partnership, association, corporation, business trust or other business entity.

20 "Revenue Code" shall mean the Internal Revenue Code of 1954, as amended.

21 "Revenues" shall mean any and all fees, rates, rentals, profits and receipts collected by, payable to, or otherwise
22 derived by, the Authority, and all other moneys and income of whatsoever kind or character collected by, payable to, or
23 otherwise derived by, the Authority in connection with loans to any eligible small business in furtherance of the purposes of
24 this chapter.

25 "Small business enterprise" shall mean (i) any industry for the manufacturing, processing, assembling, storing,
26 warehousing, servicing, distributing, or selling of any products of agriculture, mining or industry or professional services; (ii)
27 commercial enterprises making sales or providing services to industries described in clause (i) hereof; (iii) enterprises for
28 research and development, including but not limited to scientific laboratories; or (iv) such other businesses as will be in
29 furtherance of the public purposes of this chapter.

30 "Statewide Development Company" shall mean the corporation chartered under this chapter for purposes of
31 qualification as a state development company as such term is defined in the Federal Act.

32 "Umbrella bonds" shall mean the bonds issued pursuant to § 9-210 of this chapter.

33 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2279, except that the
34 definitions of "Authority," "Board," "Bonds," and "Person" from this section have been consolidated in a single definitional
35 section located at the beginning of Chapter 22 as § 2.2-2200.

36 § 9-200 2.2-2281. Construction of chapter article.

37 Nothing contained in this chapter article is to shall be construed as a restriction or limitation upon any powers which
38 that the Authority might otherwise have under any other law of the Commonwealth, and this chapter article supersedes all
39 other laws in conflict herewith and is cumulative to such powers. Insofar as the provisions of this chapter article are
40 inconsistent with the provisions of any other law, the provisions of this chapter article shall be controlling and the powers
41 conferred by this chapter article shall be regarded as supplemental and additional to powers conferred by any other laws. No
42 proceedings, notice or approval shall be required for the issuance of any bonds or any instrument or the security thereof,
43 except as provided in this chapter article.

44 The provisions of this chapter article shall be liberally construed to accomplish the purposes of this chapter article.

45 The powers granted and the duties imposed in this chapter shall be construed to be independent and severable. If
46 any one or more sections, subsections, sentences, or parts of any of this chapter shall be adjudged unconstitutional or
47 invalid, such adjudication shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its
48 operation to the specific provisions so held unconstitutional or invalid.

49 **DRAFTING NOTE:** Technical corrections. The last paragraph has been deleted as duplicative of the general severability
50 provision found in § 1-17.1 of Title 1.

51 § 9-201. Authority created; powers and duties exercised by Board of Directors.

52 The Virginia Small Business Financing Authority is hereby created, with such powers and duties as are set forth in
53 this chapter, as a public body corporate and as a political subdivision of the Commonwealth. All powers, rights and duties
54 conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of Directors of the
55 Authority.

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-2280 supra.

2 | ~~§-202 2.2-2282. Membership~~ Board of directors; membership; terms, compensation and expenses; chairman, vice-
3 | chairman, secretary and treasurer; quorum; staff.

4 | A. The Board shall consist of the State Treasurer or his designee and nine members who are not employees of the
5 | Commonwealth or of any political subdivision thereof who shall be appointed by the Governor and who shall have such small
6 | business experience as he ~~may deem~~ deems necessary or desirable. The appointment of members of the Board by the
7 | Governor shall be subject to confirmation by the General Assembly, ~~if in session when such appointments are made, and if~~
8 | ~~not in session, at the General Assembly's first session subsequent to the date such appointments are made. Unconfirmed~~
9 | ~~appointments shall expire thirty days after the convening of the General Assembly.~~ All members of the Board shall be
10 | residents of the Commonwealth. Appointments shall be for terms of four years, except that appointments to fill vacancies
11 | shall be made for the unexpired terms. No member appointed by the Governor shall serve more than two complete terms in
12 | succession. The members of the Board shall receive no salaries but shall be paid travel and other expenses incurred to
13 | attend meetings or while otherwise engaged in the discharge of their duties, all as may be deemed appropriate by the Board.

14 | B. The Governor shall appoint one member as chairman. Five members of the Board shall constitute a quorum for
15 | the transaction of all business of the Authority. The Board shall elect one member from the group of nine members appointed
16 | by the Governor as vice-chairman who shall exercise the powers of the chairman in the absence of the chairman. The
17 | ~~directors Board shall elect from their membership or not, as they desire,~~ a secretary and a treasurer, or a secretary-treasurer,
18 | who need not be members of the Board and who shall continue to hold such office until their respective successors ~~shall be~~
19 | are elected. The Department of Business Assistance of the Commonwealth shall serve as staff to the Authority.

20 | **DRAFTING NOTE:** Technical corrections only.

21 | ~~§-203 2.2-2283. Meetings of the Board.~~

22 | Board Meetings ~~meetings of the members of the Board~~ shall be held at the call of the chairman or whenever any four
23 | members so request. In any event, the Board shall meet as necessary to attend to the business of the Authority.

24 | **DRAFTING NOTE:** Technical corrections only.

25 | ~~§-204 2.2-2284. Executive Director; appointment; duties.~~

26 | The Director of the Department of Business Assistance shall appoint the Executive Director of the Authority. The
27 | Executive Director shall administer, manage and direct the affairs and activities of the Authority in accordance with the
28 | policies and under the control and the direction of the Board and the Director of the Department of Business Assistance.
29 | Except as otherwise stated in this ~~chapter~~ article, the Executive Director shall approve all accounts for allowable expenses for
30 | the Authority or of any employee or consultant or other person providing services to the Board, and for expenses incidental to
31 | the operation of the Authority subject to approval of the Director of the Department of Business Assistance. The Executive
32 | Director shall maintain and be custodian of all books, documents and papers of or filed with the Authority, including but not
33 | limited to the minute book or journal of the Authority, and of its official seal. The Executive Director may cause copies to be
34 | made of all minutes and other records and documents of the Authority and may in the place and stead of the Secretary of the
35 | Authority give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing
36 | with the Authority may rely on such certificates. The Executive Director also shall perform such other duties as ~~may be~~
37 | prescribed by the Board in carrying out the purposes of this ~~chapter~~ article.

38 | **DRAFTING NOTE:** Technical corrections only.

39 | ~~§-205 2.2-2285. Powers of the Authority.~~

40 | The Authority is ~~hereby~~ granted all powers necessary or appropriate to carry out and effectuate its purposes
41 | including, but not limited to, the following powers to:

- 42 | 1. Have perpetual existence as a public body corporate and as a political subdivision of the Commonwealth;
- 43 | 2. Adopt, amend, and repeal bylaws, rules and regulations not inconsistent with this ~~chapter~~ article, to regulate its
44 | affairs and to carry into effect the powers and the purposes of the Authority ~~as herein stated~~ and for the conduct of its
45 | business;
- 46 | 3. Sue and be sued in its name including but not limited to bringing actions pursuant to Article 6 (~~§-15.1-227-52~~
47 | 15.2-2650 et seq.) of Chapter ~~5-126~~ of Title ~~45-115.2~~ to determine the validity of any issuance or proposed issuance of its
48 | bonds under this ~~chapter~~ article and the legality and validity of all proceedings previously taken or proposed in a resolution of
49 | the Authority to be taken for the authorization, issuance, sale and delivery of such bonds and for the payment of the principal
50 | thereof and interest thereon;

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

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

53 | 6. Make and execute contracts and all other instruments necessary and convenient for the performance of its duties
54 | and the exercise of its powers under this ~~chapter~~ article upon such terms and conditions as it deems appropriate;

1 7. Employ office personnel, advisers, consultants, professionals and agents as may be necessary in its judgment,
2 and to fix their compensation;

3 8. Procure insurance against any loss in connection with its property and other assets, including but not limited to
4 loans in such amounts and from such insurers as it ~~may deem~~ deems advisable;

5 9. Borrow money and issue bonds as provided by this ~~chapter~~ article;

6 10. Procure insurance or guarantees from any public or private entities, including any department, agency or
7 instrumentality of the United States of America, or, subject to the provisions of and to the extent moneys are available in the
8 fund created by ~~§ 9-244 2.2-2290~~, insure or guarantee the payment of any bonds issued by the Authority, including the power
9 to pay premiums on any such insurance or guarantees or other instruments of indebtedness;

10 11. Receive and accept from any source aid or contributions of money, property, labor or other things of value to be
11 held, used and applied to carry out the purposes of this ~~chapter~~ article (subject, however, to any conditions upon which grants
12 or contributions are made) including, but not limited to gifts or grants from any department, agency or instrumentality of the
13 United States of America;

14 12. Enter into agreements with any department, agency or instrumentality of the United States of America or of the
15 Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating and
16 providing for the financing or assisting in the financing of any eligible small business or any project thereof;

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

18 14. Provide technical assistance to local industrial development authorities and to profit and nonprofit entities in the
19 development or operation by, or assistance to, persons engaged in small business enterprises and distribute data and
20 information concerning the encouragement and improvement of small business enterprises in the Commonwealth;

21 15. To the extent permitted in the proceedings pursuant to which the bonds of the Authority are issued, consent to
22 any modification with respect to the rate of interest, time for, and payment of, any installment of principal or interest, or any
23 other term of any contract, loan, sales contract, lease, indenture or agreement of any kind to which the Authority is a party;

24 16. To the extent permitted in the proceedings pursuant to which the bonds of the Authority are issued, enter into
25 contracts with any lender containing provisions authorizing the lender to reduce the charges or fees, exclusive of loan
26 payments, to persons unable to pay the regular schedule thereof when, by reason of other income or payment by any
27 department, agency or instrumentality of the United States of America or the Commonwealth, the reduction can be made
28 without jeopardizing the economic stability of the eligible small business being financed;

29 17. Allocate any of its property to the insurance or guarantee fund established by ~~§ 9-244 2.2-2290~~ or to any other
30 fund of the Authority, such property consisting of:

31 a. Moneys appropriated by the Commonwealth;

32 b. Premiums, fees and any other amounts received by the Authority with respect to financial assistance provided by
33 the Authority;

34 c. Proceeds as designated by the Authority from the loan or other disposition of property held or acquired by the
35 Authority;

36 d. Income from investments that were made by the Authority or on the behalf of the Authority from moneys in one or
37 more of its funds; or

38 e. Any other moneys made available to the Authority consistent with this ~~chapter~~ article;

39 18. ~~To use~~ Use any fund or funds of the Authority for any and all expenses to be paid by the Authority including, ~~by~~
40 ~~way of example,~~ but not by limitation limited to: (i) any and all expenses for administrative, legal, actuarial, and other services;
41 (ii) all costs, charges, fees and expenses of the Authority relating to the authorizing, preparing, printing, selling, issuing, and
42 insuring of bonds and the funding of reserves; and (iii) all expenses and costs relating to the guaranteeing, insuring or
43 procurement of guarantees, insurance or other instruments providing credit or the enhancement of credit for the bonds;

44 19. ~~To collect~~ Collect fees and charges, as the Authority determines to be reasonable, in connection with its loans,
45 insurance, guarantees, commitments and servicing thereof;

46 20. ~~To sell~~ Sell, at public or private sale, with or without public bidding, any obligation held by the Authority;

47 21. ~~To invest~~ Invest any funds not needed for immediate disbursement, including any funds held in reserve, in any
48 obligations or securities ~~which that~~ may be legally purchased by political subdivisions in the Commonwealth or as may be
49 otherwise permitted by ~~§ 9-230 2.2-2305~~;

50 22. ~~To administer~~ Administer the Private Activity Bonds program in Chapter ~~33.2~~ (§ 15.1-1399.10-50 (§ 15.2-5000 et
51 seq.) of Title ~~45-415.2~~ and the Virginia Economic Development Revolving Fund in Chapter 22.1 (§ 59.1-284.1 et seq.) of Title
52 59.1; and

53 23. Create and establish such funds and accounts as may be necessary or desirable for its purposes; and

54 2324. To take Take any action necessary or convenient for the exercise of the powers granted by this ~~chapter~~ article
55 or reasonably implied from them.

1 **DRAFTING NOTE:** Technical corrections. Subdivision 23 is derived from existing § 9-228 and has been added here as
2 power of the Authority.

3 ~~§ 9-206 2.2-2286.~~ Power to condemn.

4 The Authority ~~shall have the power to~~ may condemn property in furtherance of its purposes; provided, that any such
5 condemnation ~~must~~ shall be approved by the governing body of the municipality having jurisdiction over the property so
6 condemned. Any property condemned by the Authority shall not be sold or leased by the Authority unless the Authority,
7 preceding the consummation of any such sale or lease, finds and determines that such sale or lease is in furtherance of, or
8 incidental to, the main purposes of the Authority under this ~~chapter~~ article or that such property is no longer needed in
9 furtherance of, or incidental to, such purposes. Any exercise of the power to condemn as authorized by this section shall be in
10 accordance with the provisions of Title 25 (§ 25-46.1 et seq.).

11 **DRAFTING NOTE:** Technical corrections only.

12 ~~§ 9-207 2.2-2287.~~ Power to borrow money and issue bonds.

13 The Authority ~~shall have the power to~~ may borrow money and ~~to issue from time to time its bonds~~ to pay the cost of
14 the projects for which ~~such the~~ bonds have been issued, including but not limited to the power to issue ~~from time to time~~
15 bonds to renew or to pay bonds, including the interest thereon. Whenever it deems refunding expedient it ~~shall have the~~
16 ~~power to~~ may refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured,
17 and to issue bonds partly to refund outstanding bonds. Refunding bonds may be sold and the proceeds applied to the
18 purchase, redemption or payment of the bonds to be refunded, or exchanged for the bonds to be refunded. The Authority may
19 undertake the financing of the cost of a project for an eligible small business from the proceeds of its bonds by one or more of
20 the following methods: (i) entering into a lease for the facilities of the eligible small business being financed; (ii) selling such
21 facilities to the eligible small business under a sales contract; (iii) lending the proceeds of the sale of the bonds under a loan
22 agreement with the eligible small business; (iv) entering into a loans to lenders transaction in the manner described in ~~§ 9-247~~
23 2.2-2293; or (v) entering into such other ~~transaction or~~ transactions as the Board deems appropriate to accomplish the
24 purposes of this ~~chapter~~ article.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§ 9-209 2.2-2288.~~ Power to issue bonds to purchase ninety percent guaranteed portion of loans.

27 In addition to and not as a limitation upon the powers to issue bonds as elsewhere expressed in this ~~chapter~~ article,
28 the Authority may, with proceeds of an issue of its bonds, participate with lenders in making or purchasing small business
29 loans, not exceeding as to any one such loan one million dollars in principal amount, to be serviced by such lenders, provided
30 that:

31 1. The Authority's share shall not exceed ~~90~~ ninety percent of the total principal amount of any such loan, and such
32 participation shall be payable with interest at the same times, but not necessarily at the same interest rate, as the share of the
33 lender, and both shares shall be equally and ratably secured by a valid mortgage on, or security interest in, real or personal
34 property or by any other security satisfactory to the Authority to secure payment of the loan; however, the Authority's share of
35 any such loan may equal 100 percent of the total principal amount of the small business loan if the lender participating in the
36 making or purchasing of such small business loan by servicing the loan, purchases 100 percent of the total amount of the
37 bonds issued by the Authority in connection with or allocable to such small business loan;

38 2. The total principal amount of the Authority's share shall not exceed ninety percent of the value of the property
39 securing the small business loan, unless the amount in excess of ninety percent is:

40 a. Loaned from available funds ~~which that~~ are not proceeds received directly from the sale of the Authority's bonds
41 and are not restricted under the terms of the resolution authorizing, or the indenture securing such bonds, or

42 b. Insured or guaranteed by a federal agency or by a private insurer qualified to write such insurance in the
43 Commonwealth, insuring a percentage of any claim for loss at least equal to that percentage of the value by which the small
44 business loan exceeds ninety percent thereof;

45 3. The value of the property securing the small business loan is certified by the participating lender, on the basis of
46 such appraisals, bids, purchase orders, and engineers' certificates as the Authority may require; provided that the value of
47 items purchased and constructed from the proceeds of the small business loan shall not be deemed, for purposes of this
48 section, to exceed the contract price in respect of purchase or construction;

49 4. The Authority shall not disburse funds under a commitment to participate in a small business loan for the
50 construction or substantial improvement of property until the construction or improvement has been completed, unless a
51 lender furnishes an irrevocable letter of credit or a qualified corporate surety furnishes payment and performance bonds, in
52 either event satisfactory to the Authority and in an aggregate amount equal to the cost of such construction or improvement;

53 5. No other indebtedness may be secured by a mortgage on, or security interest in, property securing a small
54 business loan made or purchased pursuant to this subdivision without the prior express written authorization of the Authority;
55 and

1 6. The participating lender agrees to use the proceeds of the small business loan to lend to eligible small businesses
2 in the Commonwealth.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 9-240 2.2-2289. Power to issue umbrella bonds.~~

5 In addition to, ~~and not as a limitation upon,~~ the powers of the Authority to issue bonds ~~as elsewhere conferred in this~~
6 ~~chapter, the Authority also shall have the power to,~~ it may issue bonds, the proceeds of which, after payment of the costs of
7 issuance thereof, ~~will shall~~ be used to make loans, no single loan to be in excess of ten million dollars in aggregate principal
8 amount, to finance or refinance the projects of eligible small businesses. The Authority shall ~~promulgate adopt~~ such rules and
9 regulations as ~~may be necessary~~ necessary to carry out the purposes of this section and to provide procedures for the making of
10 such loans and the repayment thereof.

11 **DRAFTING NOTE:** Technical corrections only.

12 ~~§ 9-244 2.2-2290. Insurance or guarantee fund.~~

13 There is ~~hereby~~ created an insurance or guarantee fund of the Authority ~~which that~~ may be used for any of the
14 following purposes:

15 1. To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or
16 penalties on, and interest on its bonds;

17 2. To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or
18 penalties on, and interest on any instrument executed, obtained or delivered in connection with the issuance and sale of its
19 bonds; and

20 3. To pay or insure the payment of any fees or premiums necessary to obtain insurance, guarantees, or other
21 instruments or enhancement of credit for or support from any person in connection with financing assistance provided by the
22 Authority under this ~~chapter~~ article including but not limited to working capital loans made by a lender.

23 **DRAFTING NOTE:** Technical corrections only.

24 ~~§ 9-242 2.2-2291. Security for bonds; fees and expenses; limitations.~~

25 A. The bonds or instruments with respect to which financial assistance is provided by the Authority shall be secured
26 or unsecured in a manner approved by the Board in its sole discretion.

27 B. The Board may set the premiums and fees to be paid to it for providing financial assistance under this article. The
28 premiums and fees and expenses set by the Board shall be payable in the amounts, at the time and in the manner that the
29 Board, in its discretion, requires. The premiums and fees need not be uniform among transactions and may vary in amount
30 among transactions and at different stages during the terms of the transactions.

31 C. No portion of the proceeds of an issue of the Authority's bonds that are exempt under federal taxation as
32 industrial development bonds under Section 103 (b) of the Revenue Code shall be used to provide facilities prohibited in
33 Section 103 (b) (6) (O) of such Revenue Code.

34 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
35 A is § 9-212, subsection B is § 9-213, and subsection C is § 9-215.

36 ~~§ 9-213. Fees and expenses.~~

37 ~~The Board may, in its discretion, set the premiums and fees to be paid to it for providing financial assistance under~~
38 ~~this chapter. The premiums and fees and expenses set by the Board shall be payable in the amounts, at the time and in the~~
39 ~~manner that the Board, in its discretion, requires. The premiums and fees need not be uniform among transactions and may~~
40 ~~vary in amount among transactions and at different stages during the terms of the transactions.~~

41 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2291 supra.

42 ~~§ 9-214. Not indebtedness.~~

43 ~~Bonds issued pursuant to the provisions of this chapter shall not constitute an indebtedness within the meaning of~~
44 ~~any debt limitation or restriction.~~

45 **DRAFTING NOTE:** Technical corrections only. This section has been deleted as duplicative of proposed § 2.2-2297.

46 ~~§ 9-215. Limitations use of tax exempt bonds.~~

47 ~~No portion of the proceeds of an issue of the Authority's bonds which are exempt under federal taxation as industrial~~
48 ~~development bonds under Section 103 (b) of the Revenue Code may shall be used to provide facilities prohibited in Section~~
49 ~~103 (b) (6) (O) of such Revenue Code.~~

50 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2291 supra.

§-9-246 2.2-2292. Public hearing and approval.

Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on industrial development bonds under Section 103 of the Revenue Code, unless otherwise specified by federal law or regulation, the public hearing for industrial development bonds of the Authority shall be conducted by the Authority and the procedure for the public hearing and public approvals shall be as follows:

1. For a public hearing by the Authority:

a. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the municipality in which the facility to be financed is to be located of intention to provide financing for a named applicant. The applicant shall pay the cost of notification. ~~Such~~The notice shall also be mailed or otherwise delivered to the clerk of the local governing body of ~~such~~the municipality. The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than six days nor more than twenty-one days after the second notice shall appear in such newspaper. The hearing may be held at any place within the Commonwealth determined by the Board.

b. The notice shall contain (i) the name and address of the Authority; (ii) the name and address of the principal place of business, if any, of the applicant seeking financing; (iii) the maximum dollar amount of financing sought; and (iv) the type of business and purpose and specific location, if known, of the facility to be financed.

c. Every request for industrial development bond financing when submitted to the Authority shall be accompanied by a statement in the following form:

- Name of Applicant:
- Facility:
- Date:
- Maximum amount of financing sought: \$
- Estimated taxable value of the facility's real property in the municipality in which it is located. \$
- Estimated taxable value of the facility's real property once constructed or expanded. \$
- Estimated real property tax per year using present tax rates on the facility's real property once constructed or expanded. \$
- Estimated personal property tax per year from property to be located in expanded or constructed facility using present tax rate. \$
- Estimated merchants' capital tax per year from property to be located in expanded or constructed facility using present tax rate. \$
- Estimated dollar value per year of goods and services that will be purchased in the Commonwealth during construction or expansion of facility. \$
- Estimated dollar value per year of goods and services that will be purchased in the Commonwealth for the operation of the facility. \$
- Estimated dollar value per year of goods and services that will be produced and sold from the facility. \$
- Estimated number of employees during construction or expansion.
-
- Estimated number of regular employees on a year round basis during operation of the facility.
- Average annual salary per regular employee during operation of the facility. \$
- Estimated payroll for labor during construction or expansion of the facility. \$

If any of the above questions do not apply to the eligible small business being financed, indicate by writing N/A (not applicable) on the appropriate line.

2. For public approval, the Governor is appointed by this ~~chapter~~article as the applicable elected representative within the meaning of Section 103 (k) of the Revenue Code.

DRAFTING NOTE: Technical corrections only.

1 | ~~§ 9-247 2.2-2293.~~ Loans to lenders; conditions.

2 | The Authority may make, and undertake commitments to make, loans to lenders under terms and con-
3 | requiring the proceeds thereof to be used by ~~such the~~ lenders to make loans to eligible small businesses. Loan commit-... as
4 | or actual loans may be originated through and serviced by any such lender. As a condition to a lender's participating in ~~each~~
5 | ~~the~~ loan, ~~such the~~ lender shall agree to use the proceeds of ~~such the~~ loan within a reasonable period of time to make loans or
6 | purchase loans to provide to eligible small businesses, or finance the projects of eligible small businesses, in the
7 | Commonwealth or, if ~~such the~~ lender has made a commitment to make loans to ~~provide~~ eligible small businesses on the basis
8 | of a commitment from the Authority to purchase ~~such the~~ loans, ~~such the~~ lender ~~will shall~~ make ~~such the~~ loans within a
9 | reasonable period of time.

10 | **DRAFTING NOTE:** Technical corrections only.

11 | ~~§ 9-248 2.2-2294.~~ Investment in, purchase or assignment of loans; conditions.

12 | The Authority may invest in, purchase or make commitments to invest in or purchase, and take assignments or make
13 | commitments to take assignments, of loans made by lenders for the acquisition, construction, rehabilitation, expansion or
14 | purchase of a project ~~or projects~~ for eligible small business.

15 | **DRAFTING NOTE:** Technical corrections only.

16 | ~~§ 9-249 2.2-2295. Rules and regulations~~ Regulations of the Authority.

17 | Prior to carrying out the powers granted under §§ ~~9-247 2.2-2293 and 9-248 2.2-2294~~, the Authority shall ~~promulgate~~
18 | ~~rules and adopt rules and~~ regulations governing its activities ~~authorized thereunder~~, including but not limited to rules and
19 | regulations relating to the following:

- 20 | 1. Procedures for the submission of requests or invitations and proposals for making loans to lenders and the
21 | investment in, purchase, assignment and sale of loans;
- 22 | 2. The reinvestment by a lender of the proceeds, or an equivalent amount, from any loan to a lender in loans to
23 | provide financing for eligible small business in the Commonwealth;
- 24 | 3. Assurances that the eligible small business to be financed will improve employment conditions or otherwise
25 | improve industrial development in the Commonwealth;
- 26 | 4. Rates, fees, charges, and other terms and conditions for originating or servicing loans in order to protect against
27 | realization of an excessive financial return or benefit by the originator or servicer;
- 28 | 5. The type and amount of collateral or security to be provided to assure repayment of loans to lenders made ~~by the~~
29 | Authority;
- 30 | 6. The type of collateral, payment bonds, performance bonds or other security to be provided for any loans made by
31 | a lender for construction loans;
- 32 | 7. The nature and amount of fees to be charged by the Authority to provide for expenses and reserves of the
33 | Authority;
- 34 | 8. Standards and requirements for the allocation of available money among lenders and the determination of the
35 | maturities, terms, conditions and interest rates for loans made, purchased, sold, assigned or committed pursuant hereto;
- 36 | 9. Commitment requirements for financing by lenders involving money provided, directly or indirectly, by the
37 | Authority; or
- 38 | 10. Any other appropriate matters related to the duties or exercise of the Authority's powers ~~hereunder~~.

39 | **DRAFTING NOTE:** Technical corrections only.

40 | ~~§ 9-220 2.2-2296.~~ How bonds paid and secured.

41 | Except as may otherwise be expressly provided by the Authority in proceedings relating to a particular issue of
42 | bonds, every issue of its bonds shall be payable solely out of any revenues of the Authority. The bonds additionally may be
43 | secured by a pledge of any grant, contribution or guarantee from the federal government or any person or a pledge by the
44 | Authority of any revenues from any source.

45 | **DRAFTING NOTE:** Technical corrections only.

46 | ~~§ 9-224 2.2-2297.~~ Liability of Commonwealth, political subdivisions and members of Board.

47 | No bonds issued or loans or loan guarantees made by the Authority under this ~~chapter~~ article shall constitute a debt,
48 | liability or general obligation of the Commonwealth or any political subdivision thereof (other than the Authority), or a pledge
49 | of the faith and credit of the Commonwealth or any political subdivision thereof (other than the Authority), but shall be payable
50 | solely as provided by the Authority. No member or officer of the Board nor any person executing the bonds, loans, or loan
51 | guarantees shall be liable personally on the bonds, loans, or loan guarantees by reason of the issuance thereof. Each ~~bond~~
52 | issued or loan or loan guarantee made under this ~~chapter~~ article shall contain on the face thereof a statement that nei-

1 Commonwealth, nor any other political subdivision thereof, shall be obligated to pay the same or the interest thereon or other
2 costs incident thereto except from the revenue or money pledged by the Authority and that neither the faith and credit nor the
3 taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of, or the
4 interest on, such bond, loan, or loan guarantee.

5 **DRAFTING NOTE:** Technical corrections only.

6 ~~§-0-222~~ 2.2-2298. Authorization of bonds by resolution; contents of bond sale; manner.

7 The bonds shall be authorized by a resolution of the Board, shall bear such date or dates, and shall mature at such
8 time ~~or times~~ as such resolution may provide, except that no bond shall mature more than fifty years from the date of issue.
9 The bonds shall (i) bear interest at such ~~rate or rates~~, including variations of such rates; (ii) be in such denominations; (iii) be
10 in such form; (iv) carry such registration privileges; (v) be executed in such manner; (vi) be payable in such medium of
11 payment, at such ~~place or places~~; and (vii) be subject to such terms of redemption, including redemption prior to maturity, as
12 ~~such the~~ resolution may provide. Except as expressly provided otherwise in this ~~chapter~~ article, the provisions of other laws of
13 the Commonwealth relating to the issuance of revenue bonds shall not apply to bonds issued by the Authority. Bonds of the
14 Authority may be sold by the Authority at public or private sale, ~~from time to time~~, and at such price ~~or prices~~ as the Authority
15 ~~shall determine~~ determines.

16 **DRAFTING NOTE:** Technical corrections only.

17 ~~§-0-223~~ 2.2-2299. Resolution authorizing issuance of bonds; provisions.

18 Any resolution authorizing the issuance of bonds may contain provisions ~~as to~~ for:

19 1. Pledging all or any part of the revenues of the Authority to secure the payment of the bonds, subject to the terms
20 of the proceedings relating to other bonds of the Authority as may then exist;

21 2. Pledging all or any part of the assets of the Authority, including loans and obligations securing the same, to secure
22 the payment of the bonds, subject to the terms of the proceedings relating to other bonds of the Authority as may then exist;

23 3. The use and disposition of the gross income from loans owned by the Authority and payment of the principal of
24 loans owned by the Authority;

25 4. The setting aside of reserves or sinking funds and the regulations and disposition thereof;

26 5. Limitations on the purposes to which the proceeds from the sale of bonds may be applied and pledging the
27 proceeds to secure the payment of the bonds;

28 6. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and
29 secured, and the refunding of outstanding or other bonds;

30 7. The procedure, if any, by which the terms of any of the proceedings under which the bonds are being issued may
31 be amended or abrogated, the number or percentage of bondholders who or which must consent thereto, and the manner in
32 which the consent may be given;

33 8. The vesting in a trustee ~~or trustees~~ of such property, rights, powers and duties in trust as the Authority may
34 determine, and limiting or abrogating the right of bondholders to appoint a trustee or limiting the rights, powers and duties of
35 the trustee;

36 9. Defining the act or omissions to act ~~which that~~ shall constitute a default and the obligations or duties of the
37 Authority to the holders of the bonds, and providing for the rights and remedies of the holders of the bonds in the event of
38 default, which rights and remedies may include the general laws of the Commonwealth and other provisions of this
39 ~~chapter~~ article; or

40 10. Any other matter, of like or different character, which in any way affects the security or protection of the holders
41 of the bonds.

42 **DRAFTING NOTE:** Technical corrections only.

43 ~~§-0-224~~ 2.2-2300. Pledge by Authority.

44 Any pledge made by the Authority shall be valid and binding from the time when the pledge was made. The
45 revenues or properties so pledged and thereafter received by the Authority shall immediately be subject to the lien of such
46 pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as
47 against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether the
48 parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§-0-225~~ 2.2-2301. Purchase of bonds of Authority.

51 The Authority, subject to the provisions in proceedings relating to outstanding bonds as may then exist, may
52 purchase bonds out of any funds available therefor, which shall thereupon be cancelled, at any reasonable price which, if the

1 bonds are then redeemable, shall not exceed the redemption price (and premium, if any) then applicable plus accrued
2 interest to the redemption date thereof.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§-0-226~~ 2.2-2302. Bonds secured by indenture; contents; expenses; how treated.

5 The bonds may be secured by an indenture by and between the Authority and a corporate trustee ~~which that~~ may be
6 any bank or other corporation having the power of a trust company or any trust company within or without ~~the the~~
7 Commonwealth. ~~Such The~~ indenture may contain such provisions for protecting and enforcing the rights and remedies of the
8 bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the
9 Authority in relation to the exercise of its powers and the custody, safekeeping and application of all money. The Authority
10 may provide by the indenture for the payment of the proceeds of the bonds and revenues to the trustee under the indenture
11 or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as the Authority may
12 determine. If the bonds ~~shall be~~ are secured by an indenture, the bondholders shall have no authority to appoint a separate
13 trustee to represent them.

14 **DRAFTING NOTE:** Technical corrections only.

15 ~~§-0-227~~ 2.2-2303. Signatures of prior members or officers; validity.

16 In the event that any of the members or officers of the Board ~~shall cease~~ cease to be members or officers of the
17 Board prior to the delivery of any bonds signed by them, their signatures or facsimiles thereof shall nevertheless be valid and
18 sufficient for all purposes, ~~the same~~ as if ~~such members or officers they~~ had remained in office until such delivery.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§-0-229~~ 2.2-2304. Deposit of money; expenditures; security for deposits.

21 All money of the Authority, except as otherwise authorized ~~in or pursuant to or provided in this chapter~~ article, shall
22 be deposited as soon as practicable in a separate account ~~or accounts~~ in banks or trust companies organized under the laws
23 of the Commonwealth or in national banking associations doing business in the Commonwealth. The money in such accounts
24 shall be paid by checks signed by the Executive Director or other officer or employees of the Authority as the Authority shall
25 authorize. All deposits of money shall, if required by the Authority, be secured in such manner as the Authority determines to
26 be prudent, and all banks or trust companies are authorized to give security for the deposits.

27 **DRAFTING NOTE:** Technical corrections only.

28 ~~§-0-230~~ 2.2-2305. Contracts with holders of bonds; how money secured.

29 Notwithstanding the provisions of ~~§-0-229~~ 2.2-2304, the Authority ~~shall have the power to~~ may contract with the
30 holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the Authority and
31 of any money held in trust or otherwise for the payment of bonds, and to carry out such contract. Money held in trust or
32 otherwise for the payment of bonds or in any way to secure bonds and deposits of money may be secured in the same
33 manner as money of the Authority, and all banks and trust companies are authorized to give security for the deposits.

34 **DRAFTING NOTE:** Technical corrections only.

35 ~~§-0-234~~ 2.2-2306. Bondholder protection.

36 Subsequent amendments to this ~~chapter~~ article shall not limit the rights vested in the Authority with respect to any
37 agreements made with, or remedies available to, the holders of bonds issued under this ~~chapter~~ article prior to the enactment
38 of the amendments until the bonds, together with all interest thereon, and all costs and expenses in connection with any
39 proceeding by or on behalf of the holders, are fully met and discharged.

40 **DRAFTING NOTE:** Technical corrections only.

41 ~~§-0-234~~ 2.2-2307. Bonds as legal investments and securities.

42 The bonds issued by ~~and under the authority of this chapter~~ by the Authority ~~are declared to in accordance with this~~
43 article shall be legal investments in which all public officers or public bodies of the Commonwealth, its political subdivisions,
44 all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on
45 insurance business, all banks, bankers, banking associations, trust companies, savings institutions, building and loan
46 associations, and investment companies, all administrators, guardians, executors, trustees and other fiduciaries, and all other
47 persons who are now or may later be authorized to invest in bonds or in other obligations of the Commonwealth, may invest
48 funds, including capital, in their control or belonging to them. ~~Such The bonds are~~ shall also ~~hereby made be~~ securities ~~which~~
49 that may be deposited with and received by all public officers and bodies of the Commonwealth or any agency or political
50 subdivision of the Commonwealth and all municipalities and public corporations for any purpose for which the deposit of
51 bonds or other obligations of the Commonwealth is now or may be later authorized by law.

DRAFTING NOTE: Technical corrections only.

~~§ 9-232 2.2-2308.~~ Expenses of Authority; liability of Commonwealth or political subdivision prohibited.

All expenses incurred by the Authority in carrying out the provisions of this ~~chapter~~ article shall be payable solely from funds provided under this ~~chapter~~ article, and nothing in this ~~chapter~~ article shall be construed to authorize the Authority to incur indebtedness or liability on behalf of or payable by the Commonwealth or any of its other political ~~subdivision thereof~~ subdivisions.

DRAFTING NOTE: Technical corrections only.

~~§ 9-228. Funds created.~~

~~The Authority may create and establish such funds and accounts as may be necessary or desirable for its purposes.~~

DRAFTING NOTE: Technical corrections. This section now appears as subdivision 23 in proposed § 2.2-2285 supra.

~~§ 9-228.1 2.2-2309.~~ Creation, administration, and management of Virginia Export Fund.

A. In addition to any other fund or account the Authority may create pursuant to subdivision 23 of § 9-2282 2-2285, there shall be a permanent fund known as the Virginia Export Fund (the Fund). The Fund shall be comprised of (i) sums appropriated to it by the General Assembly, (ii) receipts by the Fund from loans or loan guarantees made against it, (iii) all income from the investment of moneys held by the Fund, and (iv) any other sums designated for deposit to the Fund from any source, public or private. The Fund shall be administered and managed by the Authority, and all moneys in the Fund shall be used to provide loans or loan guarantees as provided in § 9-228.4 subsection D. Any balances remaining in the Fund shall not revert to the general fund but shall be retained in order to make additional loans or loan guarantees.

B. All moneys belonging to the Fund shall be deposited to the credit of the State Treasurer and recorded on the books of the State Comptroller. Earnings from investments and interest shall be returned to the Fund.

C. The Authority, or its designated agent, may collect moneys due to the Fund. Proceedings to recover moneys due to the Fund may be instituted by the Authority in the name of the Fund in any appropriate court.

D. The Fund shall be used to make loans or to provide a guarantee for up to ninety percent of the principal amount of any commercial loan or line of credit made by a lender for the purpose of facilitating the sale of goods, products, or services outside of the United States by persons, firms, or corporations utilizing a Virginia air, land, or sea port to ship such goods, products, or services. Such guarantee shall not exceed one million dollars.

E. The Authority shall determine the terms and conditions of any loans or loan guarantee made against the Fund and may allow for use of the Fund in single or multiple transactions. No loan shall exceed a term of twelve months, nor shall a loan guarantee exceed a term of eighteen months. In the case of loans, the Authority shall charge an annual interest rate. In the case of guarantees, the Authority shall charge an annual guarantee fee. However, the Authority may waive such guarantee fees in an economically distressed area as defined in § 58.1-439. In connection with applications for loans or loan guarantees made against the Fund, the Authority may require the production of any document, instrument, certificate, legal opinion, or other information it deems necessary or convenient.

F. All loans or loan guarantees made against the Fund shall be approved by the Board or an authorized committee or subcommittee thereof.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 9-228.1, subsection B is § 9-228.2, subsection C is § 9-228.3, and subsections D through F are § 9-228.4. These sections have been combined to clarify that they relate to the Virginia Export Fund.

~~§ 9-228.2. Deposit of moneys.~~

~~All moneys belonging to the Fund shall be deposited to the credit of the State Treasurer and recorded on the books of the State Comptroller. Earnings from investments and interest shall be returned to the Fund.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-2309.

~~§ 9-228.3. Collection of moneys due to the Fund.~~

~~The Authority, or its designated agent, is empowered to collect moneys due to the Fund. Proceedings to recover moneys due to the Fund may be instituted by the Authority in the name of the Fund in any appropriate court.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection C in proposed § 2.2-2309.

~~§ 9-228.4. Loans and guarantees made against the Fund.~~

~~A. The Fund shall be used to make loans or to provide a guarantee for up to ninety percent of the principal amount of any commercial loan or line of credit made by a lender for the purpose of facilitating the sale of goods, products, or services outside of the United States by persons, firms, or corporations utilizing a Virginia air, land, or sea port to ship such goods, products, or services. Such guarantee shall not exceed one million dollars.~~

1 ~~B. The Authority shall determine the terms and conditions of any loans or loan guarantee made against the Fund and~~
2 ~~may allow for use of the Fund in single or multiple transactions. No loan shall exceed a term of twelve months, nor~~
3 ~~loan guarantee exceed a term of eighteen months. In the case of loans, the Authority shall charge an annual interest,~~
4 ~~the case of guarantees, the Authority shall charge an annual guarantee fee. However, the Authority may waive such~~
5 ~~guarantee fees in an economically distressed area as defined in § 58.1-438. In connection with applications for loans or loan~~
6 ~~guarantees made against the Fund, the Authority is authorized to require the production of any document, instrument,~~
7 ~~certificate, legal opinion, or other information it deems necessary or convenient.~~

8 ~~C. All loans or loan guarantees made against the Fund shall be approved by the Board or an authorized committee~~
9 ~~or subcommittee thereof.~~

10 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections D through F in proposed § 2.2-2309.

11 ~~§ 9-228.5 2.2-2310.~~ Creation, administration, and management of Virginia Small Business Growth Fund.

12 ~~A. In addition to any other fund or account the Authority may create pursuant to subdivision 23 of § 9-228 2.2-2285,~~
13 ~~there shall be a permanent fund known as the Virginia Small Business Growth Fund (the "Fund"). The Fund shall be~~
14 ~~comprised of (i) sums appropriated to it by the General Assembly, (ii) all income from the investment of moneys held by the~~
15 ~~Fund, and (iii) any other sums designated for deposit to the Fund from any source, public or private. The Fund shall be~~
16 ~~administered and managed by the Authority, and all moneys in the Fund shall be used to create special reserve funds to~~
17 ~~cover potential future losses from the loan portfolios of participating banks and lending institutions as provided in § 9-~~
18 ~~228.8 subsection D. Any remaining balances in the Fund shall not revert to the general fund but shall be retained in order to~~
19 ~~create additional special reserve funds.~~

20 ~~B. All moneys belonging to the Fund shall be deposited to the credit of the State Treasurer and recorded on the~~
21 ~~books of the State Comptroller. Earnings from investments and interest shall be returned to the Fund.~~

22 ~~C. The Authority, or its designated agent, may collect moneys owed to the Fund. Proceedings to recover moneys~~
23 ~~owed to the Fund may be instituted by the Authority in the name of the Fund in any appropriate court.~~

24 ~~D. The Fund shall be used as a special reserve fund to cover potential future losses from the loan portfolios of~~
25 ~~participating banks and lending institutions. The Authority shall (i) work with banks and lending institutions to establish a~~
26 ~~separate account for the Virginia Small Business Growth Fund in each participating bank or lending institution and (ii) deposit~~
27 ~~into such accounts moneys from the Fund in an amount at least equal to the total of the sum of the bank or lending~~
28 ~~institution's and the individual borrower's deposits into such account. Such matching sum by the Authority shall not exceed~~
29 ~~fourteen percent of the principal amount of the loan.~~

30 ~~E. The Authority shall determine the qualifications, terms, and conditions for the use of the Fund and the ac...s~~
31 ~~thereof. In connection with applications for claims made against the Fund, the Authority may require the production of any~~
32 ~~document, instrument, certificate, legal opinion, or any other information it deems necessary or convenient. All claims made~~
33 ~~against the Fund shall be approved by the Board or an authorized committee or subcommittee thereof. All claims made~~
34 ~~against each account shall be reported to the Board or an authorized committee thereof.~~

35 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
36 A is § 9-228.5, subsection B is § 9-228.6, subsection C is § 9-228.7, and subsections D and E are § 9-228.8. These sections
37 have been combined to clarify that they relate to the Virginia Small Business Growth Fund.

38 ~~§ 9-228.6. Deposit of moneys.~~

39 ~~All moneys belonging to the Fund shall be deposited to the credit of the State Treasurer and recorded on the books~~
40 ~~of the State Comptroller. Earnings from investments and interest shall be returned to the Fund.~~

41 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B of proposed § 2.2-2310.

42 ~~§ 9-228.7. Collection of moneys due to the Fund.~~

43 ~~The Authority, or its designated agent, is empowered to collect moneys owed to the Fund. Proceedings to recover~~
44 ~~moneys owed to the Fund may be instituted by the Authority in the name of the Fund in any appropriate court.~~

45 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2310.

46 ~~§ 9-228.8. Operation of the Fund.~~

47 ~~A. The Fund shall be used as a special reserve fund to cover potential future losses from the loan portfolios of~~
48 ~~participating banks and lending institutions. The Authority shall (i) work with banks and lending institutions to establish a~~
49 ~~separate account for the Virginia Small Business Growth Fund in each participating bank or lending institution and (ii) deposit~~
50 ~~into such accounts, moneys from the Fund in an amount at least equal to the total of the sum of the bank or lending~~
51 ~~institution's and the individual borrower's deposits into such account. Such matching sum by the Authority shall not exceed~~
52 ~~fourteen percent of the principal amount of the loan.~~

1 ~~B. The Authority shall determine the qualifications, terms, and conditions for the use of the Fund and the accounts~~
2 ~~thereof. In connection with applications for claims made against the Fund, the Authority is authorized to require the production~~
3 ~~of any document, instrument, certificate, legal opinion, or any other information it deems necessary or convenient. All claims~~
4 ~~made against the Fund shall be approved by the Board or an authorized committee or subcommittee thereof. All claims made~~
5 ~~against each account shall be reported to the Board or an authorized committee thereof.~~

6 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections D and E in proposed § 2.2-2310.

7 ~~§ 2-164.34:1~~ 2.2-2311. Creation, administration, and management of the Capital Access Fund for Disadvantaged
8 Businesses.

9 A. For the purposes of this section:

10 "Disadvantaged business" means a for-profit small business concern that is majority-owned by one or more
11 economically disadvantaged individuals. In the case of a corporation, a majority of the stock shall be owned by one or more
12 such individuals and the management and daily business operations shall be controlled by one or more of the economically
13 disadvantaged individuals who own it.

14 "Economically disadvantaged individual" means an individual whose ability to compete in the free market has been
15 impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business and
16 competitive market area.

17 B. There is ~~herby~~ created in the state treasury a permanent nonreverting fund to be known as the Capital Access
18 Fund for Disadvantaged Businesses (the Fund). The Fund shall be comprised of (i) moneys appropriated to the Fund by the
19 General Assembly, (ii) all income from the investment of moneys held by the Fund, and (iii) any other moneys designated for
20 deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and
21 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert
22 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to provide loan guarantees, loan loss
23 reserves, and interest rate write downs. The Fund shall be managed by the Department of Minority Business Enterprise (the
24 Department) and administered by the Virginia Small Business Financing Authority (the Authority).

25 C. The operation of the Fund shall be as follows:

26 1. The Fund may be used as a special reserve fund to cover potential future losses from the loan portfolios of
27 participating banks and lending institutions. The Authority shall (i) establish with one or more banks and lending institutions
28 one or more accounts or pools for the Capital Access Fund for Disadvantaged Businesses and (ii) deposit into such accounts
29 or pools moneys from the Fund in an amount at least equal to the total of the sum of the bank or lending institutions and the
30 individual borrower's deposits, cash equivalents or other acceptable securities, including but not limited to letters of credit, for
31 each loan sought to be covered for future losses. Such matching sum by the Authority shall not exceed fourteen percent of
32 the principal amount of the loan. The Authority may require up to a one hundred percent match by the individual borrowers
33 pursuant to established guidelines.

34 2. The Fund may also be used to guarantee up to ninety percent of the principal amount of any loan to cover
35 potential future losses from the loan portfolios of participating banks and lending institutions to cover specific loans on such
36 terms and conditions as set forth in established guidelines. Such guarantees shall not exceed a term of five years and shall
37 not exceed fifty thousand dollars.

38 3. The Fund may also be used to provide interest rate write downs or other payments to achieve a concessionary
39 rate of interest ~~which that~~ shall be limited to five percent of the balance of the Fund that is unencumbered by any special
40 reserves or guarantees or the income earned by the Fund from all sources including fees, interest, or other investment
41 income. No interest rate write down or payment to achieve a concessionary rate shall extend for more than five years and
42 such rates shall include provisions for an increase in such rates to a near market rate but not more than the prime rate.

43 4. Provisions may be made for a borrower to use a combination of subdivisions C₁, C₂, and C₃ pursuant to
44 established guidelines.

45 D. The determination of economic disadvantage shall be made by the Director of the Department of Minority
46 Business Enterprise pursuant to the guidelines developed in accordance with subsections B and C.

47 E. The Department and the Authority, or their designated ~~agent~~ agents, shall determine the qualifications, terms, and
48 conditions for the use of the Fund and the accounts thereof. In connection with applications for claims made against the
49 Fund, the Department is ~~authorized to~~ may require the production of any document, instrument, certificate, legal opinion, or
50 any other information it deems necessary or convenient. All claims made against the Fund shall be approved by the
51 Department and the Authority.

52 **DRAFTING NOTE:** Technical corrections only. This section was moved from the article relating to the Department of Minority
53 Business Enterprise to this article since the Virginia Small Business Financing Authority is mandated to administer this fund.
54 A cross reference to this section was added to the powers of Department of Minority Business Enterprise. In subdivision C₂
55 1., the words "at least" were added on the recommendation of the Secretary of Commerce and Trade.

56 ~~§ 9-235~~ 2.2-2312. Annual report; audit.

1 The Authority shall, within 120 days of the close of each fiscal year, submit an annual report of its activities for the
2 preceding fiscal year to the Governor and the chairmen of the House Committee on Appropriations and the Senate
3 Committee on Finance. Each report shall set forth, for the preceding fiscal year, a complete operating and financial statement
4 for the Authority and any loan fund or loan guarantee fund the Authority administers or manages. The Commonwealth's
5 Auditor of Public Accounts or his designee ~~legally authorized representatives~~ shall at least once in a year audit the books and
6 accounts of the Authority and any loan fund or loan guarantee fund the Authority administers or manages.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 9-233 2.2-2313.~~ Exemption from taxation.

9 The Authority is ~~herby~~ declared to be performing a public function and to be a public body corporate and a political
10 subdivision of the Commonwealth. Accordingly, the income, including any profit made on the sale thereof from all bonds
11 issued by the Authority, shall at all times be exempt from all taxation by the Commonwealth or any public subdivision thereof.
12 If, after all indebtedness and other obligations of the Authority are discharged, the Authority is dissolved, its remaining assets
13 shall inure to the benefit of the Commonwealth.

14 **DRAFTING NOTE:** Technical corrections only.

15 ~~§ 9-208 2.2-2314.~~ Administrative Process Act not applicable.

16 The provisions of the Administrative Process Act (~~§ 9-6-14:4- 2.2-4000~~ et seq.) shall not apply to this ~~chapter~~ article.

17 **DRAFTING NOTE:** Technical corrections only.

18 ~~§ 9-240.1. Nonstock corporation to assist small businesses.~~

19 The Department of Business Assistance is ~~herby~~ authorized to establish a nonstock corporation under Chapter 10
20 (~~§ 13.1-801 et seq.~~), Title 13.1 as an instrumentality to assist the Department in providing support to the small business
21 segment of the economy of the Commonwealth. The Department is further authorized to do all things necessary to qualify
22 such corporation as a certified development company under Subchapter V of the Small Business Investment Act of 1958 (15
23 U.S.C. § 605 et seq.), or any amendment or successor statute thereto, as well as regulations promulgated thereunder by the
24 United States Small Business Administration. Any action by the Department to establish such a corporation prior to July 1,
25 1986, is ~~herby~~ ratified and approved.

26 **DRAFTING NOTE:** Technical corrections. This section was moved to Chapter 9, relating to the Department of Business
27 Assistance in Part C of Subtitle I as § 2.2-903 for more appropriate place.

28 Article 8.

29 Virginia Tourism Authority.

30 ~~§ 2.1-548-53.~~ Short title.

31 This chapter shall be known and may be cited as the Virginia Tourism Authority Act.

32 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection A in proposed § 2.2-2315 infra.

33 ~~§ 2.1-548-54 2.2-2315.~~ Legislative findings and purposes Short title; declaration of public purpose; Authority created.

34 A. This article shall be known and may be cited as the Virginia Tourism Authority Act.

35 B. The General Assembly finds and ~~herby~~ declares that:

36 1. There exists in all geographical regions of the Commonwealth a ~~rich~~ plethora of tourist attractions, including
37 cultural, historical, commercial, educational, and recreational activities, locations, and sources of entertainment;

38 2. Such tourist attractions are of potential interest to millions of people who reside both in and outside the
39 Commonwealth;

40 3. Promotion of tourism in the Commonwealth is necessary to increase the prosperity of the people of the
41 Commonwealth;

42 4. A state tourism development authority is therefore necessary to stimulate the tourism segment of the economy by
43 promoting, advertising, and marketing the Commonwealth's many tourist attractions and by coordinating other private and
44 public efforts to do the same; and

45 5. The film industry is a legitimate and important part of economic development in the Commonwealth.

46 The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a
47 public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

48 C. The Virginia Tourism Authority is created, with the duties and powers set forth in this article, as a public body
49 corporate and as a political subdivision of the Commonwealth. The Authority is constituted a public instrumentality exercising
50 public and essential governmental functions, and the exercise by the Authority of the duties and powers conferred by this

article shall be deemed and held to be the performance of an essential governmental function of the Commonwealth. The exercise of the powers granted by this article shall be in all respects for the benefit of the inhabitants of the Commonwealth and the increase of their commerce and prosperity. The Authority may do business as the "Virginia Tourism Corporation," and any references in the Code of Virginia or in any regulations adopted thereunder that refer to the Virginia Tourism Corporation shall, whenever necessary, be deemed to refer to the Authority.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 2.1-548.53, subsection B is § 2.1-548.54 (except that the definitions of "Authority" and "Board" from § 2.1-548.55 have been consolidated in a single definitional section located at the beginning of this Chapter 22 as § 2.2-2200, and subsection C is § 2.1-548.56.

~~§ 2.1-548.55. Definitions.~~

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

~~"Authority" means the Virginia Tourism Authority created by this chapter.~~

~~"Board" or "Board of Directors" means the Board of Directors of the Authority.~~

~~"Member" means a person currently serving a term on the Board of Directors.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-2315, except that the definitions of "Authority" and "Board" from this section have been consolidated in a single definitional section located at the beginning of Chapter 22 as § 2.2-2200. The definition of "Member" has been deleted as unnecessary.

~~§ 2.1-548.56. Creation of Authority.~~

~~The Virginia Tourism Authority is created, with the duties and powers set forth in this chapter, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is hereby constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the Authority of the duties and powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the Commonwealth. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth and the increase of their commerce and prosperity. The Authority is authorized to do business as the "Virginia Tourism Corporation," and any references in the Code or in any regulations promulgated thereunder that refer to the Virginia Tourism Corporation shall, whenever necessary, be deemed to refer to the Authority.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection C in proposed § 2.2-2315 supra.

~~§ 2.1-548.57 2.2-2316. Board of Directors directors; members and officers.~~

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

Each member of the Board shall be reimbursed for his or her reasonable expenses incurred in attendance at meetings or when otherwise engaged in the business of the Authority and shall be compensated at the rate provided in § 2-4-20-32.2-2104 for each day or portion thereof in which the member is engaged in the business of the Authority.

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

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

D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of acceptance of membership on the Board or by providing service to the Authority.

1 **DRAFTING NOTE:** Technical corrections only.

2 | ~~§ 2-1-548.58~~ 2.2-2317. Appointment and duties of Executive Director.

3 | The Governor shall appoint an Executive Director of the Authority, who shall serve as President and chief executive
4 | officer of the Authority. The Executive Director shall report to, but not be a member of, the ~~Board of Directors~~. The Governor
5 | shall set the salary and other compensation of the Executive Director, and shall approve any changes in the Executive
6 | Director's salary or compensation. The Executive Director shall serve as the ex officio secretary of the Board and shall
7 | administer, manage and direct the affairs and activities of the Authority in accordance with the policies and under the control
8 | and direction of the ~~Board of Directors~~. He shall attend meetings of the ~~Board of Directors~~, shall keep a record of the
9 | proceedings of the Board and shall maintain and be custodian of all books, documents and papers of the Authority, the
10 | minute book of the Authority and its official seal. He may cause copies to be made of all minutes and other records and
11 | documents of the Authority and may give certificates under seal of the Authority to the effect that the copies are true copies,
12 | and all persons dealing with the Authority may rely upon the certificates. He shall also perform other duties as instructed by
13 | the Board in carrying out the purposes of this ~~chapter~~ article. The Executive Director shall employ or retain such agents or
14 | employees subordinate to him as may be necessary to fulfill the duties of the Authority conferred upon the Executive Director,
15 | subject to the Board's approval. Employees of the Authority, including the Executive Director, shall be eligible for membership
16 | in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including
17 | premium conversion and flexible benefits, available to state employees as provided by law.

18 **DRAFTING NOTE:** Technical corrections only.

19 | ~~§ 2-1-548.59~~ 2.2-2318. Powers of Authority.

20 | The Authority ~~is~~ shall be granted all powers necessary or appropriate to carry out and to effectuate its purposes,
21 | including the following to:

- 22 | 1. Have perpetual succession as a public body corporate and as a political subdivision of the Commonwealth;
- 23 | 2. Adopt, amend and repeal bylaws, rules and regulations, not inconsistent with this ~~chapter~~ article for the
24 | administration and regulation of its affairs, to carry into effect the powers and purposes of the Authority and the conduct of its
25 | business;
- 26 | 3. Sue and be sued in its own name;
- 27 | 4. Have an official seal and alter it at will although the failure to affix this seal shall not affect the validity of
28 | instrument executed on behalf of the Authority;
- 29 | 5. Maintain an office at any place within or without the Commonwealth ~~which~~ that it designates;
- 30 | 6. Make and execute contracts and all other instruments and agreements necessary or convenient for the
31 | performance of its duties and the exercise of its powers and functions under this ~~chapter~~ article;
- 32 | 7. Acquire real or personal property, or any interest therein, by purchase, exchange, gift, assignment, transfer,
33 | foreclosure, lease or otherwise, including rights or easements, and hold, manage, operate or improve such property;
- 34 | 8. Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its properties
35 | and assets;
- 36 | 9. Employ officers, employees, agents, advisers and consultants, including without limitation, financial advisers and
37 | other technical advisers and public accountants and, the provisions of any other law to the contrary notwithstanding, to
38 | determine their duties and compensation without the approval of any other agency or instrumentality;
- 39 | 10. Procure insurance, in amounts and from insurers of its choice, or provide self-insurance, against any loss, cost,
40 | or expense in connection with its property, assets or activities, including insurance or self-insurance against liability for its
41 | acts or the acts of its directors, employees or agents and for the indemnification of the members of its Board and its
42 | employees and agents;
- 43 | 11. Receive and accept from any source aid, grants and contributions of money, property, labor or other things of
44 | value to be held, used and applied to carry out the purposes of this ~~chapter~~ article subject to the conditions upon which the
45 | aid, grants or contributions are made;
- 46 | 12. Enter into agreements with any department, agency or instrumentality of the United States, the Commonwealth,
47 | the District of Columbia or any state for purposes consistent with its mission;
- 48 | 13. Establish and revise, amend and repeal, and charge and collect, fees and charges in connection with any
49 | activities or services of the Authority;
- 50 | 14. Make grants to local governments with any funds of the Authority available for this purpose;
- 51 | 15. Develop policies and procedures generally applicable to the procurement of goods, services, and construction
52 | based on competitive principles;
- 53 | 16. Issue periodicals and carry and charge for advertising therein;
- 54 | 17. Raise money in the corporate, nonprofit, and nonstate communities to finance the Authority's activities;

- 1 18. Support and encourage each locality to foster its own tourism development programs;
- 2 19. Enter into agreements with public or private entities that provide participating funding to establish and operate
- 3 tourism centers, funded jointly by the entity and the Authority, as shall be determined by the Executive Director, and as
- 4 approved by the Authority;
- 5 20. Encourage, stimulate, and support tourism in the Commonwealth by promoting, marketing, and advertising the
- 6 Commonwealth's many tourist attractions and locations;
- 7 21. Encourage, stimulate, and support the film industry in the Commonwealth;
- 8 22. Do all things necessary or proper to administer and manage the Cooperative Tourism Advertising Fund and the
- 9 Governor's Motion Picture Opportunity Fund; and
- 10 23. Do any act necessary or convenient to the exercise of the powers granted or reasonably implied by this ~~chapter~~
- 11 article and not otherwise inconsistent with state law.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2-1-548.60~~ 2.2-2319. Cooperative ~~Tourism Advertising Marketing~~ Fund.

14 A. There is ~~hereby~~ established the Cooperative ~~Tourism Advertising Marketing~~ Fund (~~Co-op Marketing~~ Fund) for the

15 purpose of encouraging, stimulating, and supporting the tourism segment of the economy of the Commonwealth and the

16 direct and indirect benefits that flow from the success of such industry. To create the public-private partnership envisioned by

17 such ~~Co-op Marketing~~ Fund, the ~~Co-op Marketing~~ Fund shall be established out of the sums appropriated ~~from time to time~~ by

18 the General Assembly for the purpose of matching private funds to be used for the promotion, marketing, and advertising of

19 the Commonwealth's many tourist attractions and locations. Proposals shall be eligible for matching grant funds under this

20 section only if they promote, market and advertise locations or destinations solely within the territorial limits of the

21 Commonwealth. The ~~Co-op Marketing~~ Fund shall be administered and managed by the Authority and expended pursuant to a

22 formula contained in the general appropriation act.

23 B. In the event more than one person seeks to take advantage of the benefits conferred by this section and the ~~Co-~~

24 ~~op Marketing~~ Fund is insufficient to accommodate all such requests, the matching formula shall be adjusted, to the extent

25 practicable, to afford each request for which there is a valid public purpose an equitable share.

26 C. All persons seeking to receive or qualify for such matching funds shall apply to the Authority in ~~August-January~~ of

27 the year preceding the fiscal year for which funds are sought, and to the extent the Governor concurs in such funding request,

28 it shall be reflected in the Governor's Budget Bill filed pursuant to ~~§ 2-1-300 2.2-1509~~. ~~Such~~ The application shall set forth the

29 applicant's proposals in detail. The Authority shall develop guidelines setting forth the criteria it will weigh in considering such

30 applications; such guidelines may indicate a preference for proposals submitted by nonprofit organizations.

31 **DRAFTING NOTE:** Technical corrections only.

32 ~~§ 2-1-548.61~~ 2.2-2320. Governor's Motion Picture Opportunity Fund.

33 There is ~~hereby~~ created a Governor's Motion Picture Opportunity Fund (the Fund) to be used, in the sole discretion

34 of the Governor, to support the film and video industries in Virginia by providing the means for attracting production

35 companies and producers who make their projects in the Commonwealth using Virginia employees, goods and services. The

36 Fund shall consist of any moneys appropriated to it in the general appropriation act or revenue from any other source. The

37 Fund shall be established on the books of the Comptroller and any moneys remaining in the Fund at the end of a biennium

38 shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

39 The Fund shall be used by the Governor to assist production companies or producers that meet the eligibility

40 requirements set forth in the guidelines. The ~~Virginia Tourism Authority~~ shall assist the Governor in the development of

41 guidelines for the use of the Fund. The guidelines should include provisions for geographic diversity and a cap on the amount

42 of money available for a certain project. The types of projects eligible for consideration will be feature films, children's

43 programs, documentaries, television series or other television programs designed to fit a thirty-minute or longer format slot.

44 Projects not eligible are industrial, corporate or commercial projects, education programs not intended for rebroadcast, adult

45 films, music videos and news shows or reports.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 2-1-548.62~~ 2.2-2321. Grants from Commonwealth.

48 The Commonwealth may make grants of money or property to the Authority for the purpose of enabling it to carry out

49 its corporate purposes and for the exercise of its powers. This section shall not be construed to limit any other power the

50 Commonwealth may have to make grants to the Authority.

51 **DRAFTING NOTE:** Technical corrections only.

52 ~~§ 2-1-548.65~~ 2.2-2322. Deposit of money; expenditures; security for deposits.

1 A. All money of the Authority, except as otherwise authorized by law or this ~~chapter article~~, shall be deposited in
2 accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations
3 located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United
4 States. The money in these accounts shall be paid by check signed by the Executive Director or any other officer or
5 employee designated by the Authority. All deposits of money shall, if required by the Authority, be secured in a manner
6 determined by the Authority to be prudent, and all banks, trust companies and savings institutions are authorized to give
7 security for the deposits.

8 B. Funds of the Authority not needed for immediate use or disbursement, including any funds held in reserve, may
9 be invested in (i) obligations or securities ~~which that~~ are considered lawful investments for fiduciaries, both individual and
10 corporate, as set forth in § 26-40, (ii) bankers' acceptances, or (iii) repurchase agreements, reverse repurchase agreements,
11 rate guarantee or investment agreements or other similar banking arrangements.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2-1-548-66 2.2-2323.~~ Forms of accounts and records; annual reports; audit.

14 The Authority shall maintain accounts and records showing the receipt and disbursement of funds from whatever
15 source derived in ~~such a~~ form as prescribed by the Auditor of Public Accounts ~~prescribes~~. Such accounts and records shall
16 correspond as nearly as possible to accounts and records maintained by corporate enterprises.

17 The accounts of the Authority shall be audited annually by the Auditor of Public Accounts, or his legally authorized
18 representatives, and the costs of such audits shall be borne by the Authority. The Authority shall, following the close of each
19 fiscal year, submit an annual report of its activities for the preceding year to the Governor. ~~The Clerk of each House of the~~
20 ~~General Assembly may receive a copy of the report by making a request for it to the chairman of the Board of Directors.~~ Each
21 report shall set forth a complete operating and financial statement for the Authority during the fiscal year it covers. ~~The~~
22 ~~accounts of the Authority shall be audited annually by the Auditor of Public Accounts, or his legally authorized representatives~~
23 ~~and the costs of such audits shall be borne by the Authority.~~

24 **DRAFTING NOTE:** Technical corrections. Language contained in this section relating to the audit of the Authority's accounts
25 has been consolidated. The sentence about the Clerks of each House of the General Assembly has been deleted as
26 duplicative of existing law.

27 ~~§ 2-1-548-64 2.2-2324.~~ Exemption from taxation.

28 As set forth in subsection C of § 2-1-548-56 2.2-2315, the Authority ~~will~~ shall be performing an essential
29 governmental function in the exercise of the powers conferred upon it by this ~~chapter article~~. ~~The Accordingly, the~~ Authority
30 shall not be required to pay any taxes or assessments upon any project or any property or upon any operations of the
31 Authority or the income therefrom. Agents, lessees, sublessees, or users of tangible personal property owned by or leased to
32 the Authority also shall not be required to pay any sales or use tax upon such property or the revenue derived therefrom.

33 **DRAFTING NOTE:** Technical corrections only.

34 ~~§ 2-1-548-63 2.2-2325.~~ Exemptions from personnel and procurement procedures.

35 The provisions of the Virginia Public Procurement Act (~~§ 11-35-2.2-4300~~ et seq.) and the Virginia Personnel Act (§
36 ~~2-1-440-2900~~ et seq.) shall not apply to the Authority.

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 2-1-548-67 2.2-2326.~~ Sovereign immunity.

39 No provisions of this ~~chapter article~~ nor act of the Authority, including the procurement of insurance or self-
40 insurance, shall be deemed a waiver of any sovereign immunity to which the Authority or its directors, officers, employees, or
41 agents are otherwise entitled.

42 **DRAFTING NOTE:** Technical corrections only.

43 ~~§ 2-1-548-68 2.2-2327.~~ Liberal construction of ~~chapter article~~.

44 The provisions of this ~~chapter article~~ shall be liberally construed to the end that its beneficial purposes may be
45 effectuated. ~~No proceedings, notice or approval shall be required for the issuance of any bonds of the Authority or any~~
46 ~~instruments or the security thereof, except as provided in this chapter.~~

47 **DRAFTING NOTE:** Technical corrections. The last sentence of this section has been deleted because the Authority is not
48 authorized in this article to issue bonds.

2 **Chapters 24 through 27 DRAFTING NOTE:** To standardize the language relative to the creation of the various boards,
3 commissions, councils, and foundations and other collegial bodies, the Virginia Code Commission has established standard
4 nomenclature that has been used in Chapters 24 through 27, which follow. In deciding the standard nomenclature to be
5 used, the Virginia Code Commission identified eight functional elements that should be included in the creation of any board,
6 council, commission, etc. These functional elements include: (i) creation -- specifying the branch of government, a statement
7 of purpose for which the board, etc. was created, and delineation of the type of board (i.e., advisory/policy/supervisory); (ii)
8 powers and duties of board; (iii) composition of board, appointment of members, and who appoints; (iv) terms of office,
9 generally providing for staggered terms, how vacancies filled, maximum number of terms, and voting rights (ex officio are
10 presumed to be voting unless statute specifically says they are nonvoting members); (v) election of chair and vice chair, who
11 elects; quorum requirements, when meetings held; (vi) compensation; (vii) staffing; and (viii) cooperation from state agencies
upon request of board.

12 CHAPTER 23. RESERVED.

13 CHAPTER 24.

14 BOARDS.

15 Article 1.

16 Art and Architectural Review Board.

17 ~~§ 2.1-488.1- 2.2-2400. Art and Architectural Review Council continued as Art and Architectural Review Board;~~
18 ~~members and officers; travel expenses; quorum; compensation; staff; report.~~

19 ~~The Art and Architectural Review Council within the Department of General Services is continued and shall hereafter~~
20 ~~be known as the Art and Architectural Review Board. A. The Art and Architectural Review Board (the "Board") is established~~
21 ~~as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist~~
22 ~~of six members as follows: the Director of the Department of Historic Resources, or his designee, serving as an ex officio~~
23 ~~member and five citizen members, appointed by the Governor. ~~One Of the citizen members, one shall be appointed from a~~~~
24 ~~list of architects nominated by the governing board of the Virginia Society of the American Institute of Architects; one shall be~~
~~appointed from a list of persons nominated by the governing board of the University of Virginia; one shall be appointed from a~~
~~list of persons nominated by the board of trustees of the Virginia Museum of Fine Arts; and two shall be appointed from the~~
~~Commonwealth at large, one of whom shall be a painter or sculptor.~~

28 B. The members of the Board shall be appointed for terms of four years each, except appointments to fill vacancies,
29 which shall be for the unexpired terms. No member shall serve for more than two consecutive four-year terms, except that
30 any member appointed to the unexpired term of another shall be eligible to serve two consecutive four-year terms in his own
31 right. ~~The Governor shall have authority to fill all vacancies. Vacancies shall be filled in the manner of the original~~
32 appointments. The Director of the Department of Historic Resources shall serve a term coincident with his term of office.

33 C. Annually, the Board shall elect a chairman and vice-chairman and may elect such other officers as the Board
34 deems proper from among its membership. A majority of the members of the Board shall constitute a quorum.

35 D. The members of the Board shall serve without compensation, but shall be entitled to receive actual reimbursed for
36 all reasonable and necessary travel expenses incurred in the discharge of their duties as provided in § 2.2-2825.

37 E. The Division of Engineering and Buildings of the Department of General Services shall provide assistance to the
38 Board in the undertaking of its responsibilities.

39 F. The Board shall submit a biennial report to the Governor and General Assembly on or before October 1 of each
40 even-numbered year. The biennial report shall be distributed in accordance with the provisions of § 2.1-467.

41 **DRAFTING NOTE:** Technical corrections. This proposed section is a merger of the following existing sections: subsections
42 A through D are § 2.1-488.1 subsection E is § 2.1-488.6 and subsection F is § 2.1-488.2:1.

43 ~~§ 2.1-488.2:1. Biennial report.~~

44 ~~The Board shall submit a biennial report to the Governor and General Assembly on or before October 1 of each~~
45 ~~even-numbered year. The biennial report shall be distributed in accordance with the provisions of § 2.1-467.~~

46 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection F in proposed § 2.2-2400.

47 ~~§ 2.1-488.3. Meaning of term "work of art."~~

48 ~~The term "work of art" as used in this chapter shall apply to and include all paintings, mural decorations, stained~~
49 ~~glass, statues, bas-reliefs, tablets, sculptures, monuments, fountains, arches or other structure of a permanent character~~
~~intended for ornament or commemoration.~~

DRAFTING NOTE: Technical correction. This section now appears as subsection B in proposed § 2.2-2401 infra.

1 ~~§ 2.1-488.5~~ 2.2-2401. Works of art accepted by Governor; approval by ~~Council~~Board; meaning of "work of art".

2 A. The Governor ~~is authorized to~~may accept, in the name of the Commonwealth, gifts to the Commonwealth,
3 works of art as defined in ~~§ 2.1-488.3~~ subsection B. But no work of art shall be so accepted until submitted to the ~~Council~~
4 Board or otherwise brought to its attention for its advice and counsel to the Governor.

5 ~~Nothing herein shall affect pending litigation.~~

6 B. As used in this article, "work of art" means all paintings, mural decorations, stained glass, statues, bas-reliefs,
7 tablets, sculptures, monuments, fountains, arches or other structure of a permanent character intended for ornament or
8 commemoration.

9 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing section: subsection
10 A is § 2.1-488.5 and subsection B is 2.1-488.3.

11 ~~§ 2.1-488.4~~ 2.2-2402. Governor's approval of works of art; removal, etc.; structures, fixtures and works of art placed
12 on or extending over state property.

13 A. ~~Works of art. Hereafter no~~No work of art shall become the property of the Commonwealth by purchase, gift or
14 otherwise, unless ~~such~~the work of art or a design thereof, together with its proposed location, ~~shall~~ have been submitted to
15 and approved by the Governor acting with the advice and counsel of the ~~Council; nor Board.~~ Nor shall any work of art, until
16 so submitted and approved, be contracted for, placed in or upon or allowed to extend over any property belonging to the
17 Commonwealth. No existing work of art owned by the Commonwealth shall be removed, relocated or altered in any way
18 without submission to the Governor; ~~provided, that the foregoing provisions,~~

19 This subsection shall not apply to any portrait, tablet or work of art portraying, or pertaining to, a present or former
20 Governor and presented to, or acquired, by the Governor and displayed in that part of the building under the direct
21 supervision of the Governor or a present or former presiding officer of the Senate or a member or former member of the
22 Supreme Court, the Senate, or the House of Delegates, presented to, or acquired by, the member's or ~~presiding~~presiding
23 officer's respective body and displayed in that part of any building ~~or buildings~~ under the direct supervision and jurisdiction of
24 such body nor shall they apply to any portrait, tablet or work of art acquired by the Virginia Museum of Fine Arts or museums
25 operated in conjunction with art or architectural departments at ~~state~~public colleges or universities in Virginia.

26 B. ~~Structures and fixtures placed on or extending over state property.~~No construction or erection of any building or
27 any appurtenant structure of any nature, which is to be placed on or allowed to extend over any property belonging to the
28 Commonwealth, and no construction or erection of any bridge, arch, gate, fence, or other structure or fixture inter
29 primarily for ornamental or memorial purposes, and which is to be paid for, either wholly or in part by appropriation from
30 state treasury, and, which is to be placed on or allowed to extend over any property belonging to the Commonwealth, shall be
31 begun, unless the design and proposed location thereof ~~shall~~ have been submitted to the Governor and its artistic character
32 approved in writing by him acting with the advice and counsel of the ~~Council Board,~~ unless the Governor ~~shall have~~has failed
33 to disapprove in writing the design within thirty days after its submission. ~~Furthermore, no~~No existing structure of the kinds
34 ~~named and~~ described in this subsection, owned by the Commonwealth, shall be removed, remodeled or added to, nor shall
35 any appurtenant structure be attached ~~thereto~~ without submission to the Governor and the artistic character of the proposed
36 new structure approved in writing by him acting with the advice and counsel of the ~~Council Board,~~ unless the Governor ~~shall~~
37 havehas failed to disapprove in writing the design within thirty days after its submission.

38 C. ~~Works of art placed on or extending over state property.~~No work of art not owned by the Commonwealth shall
39 be placed in or upon or allowed to extend over any property belonging to the Commonwealth for a period of more than two
40 years unless such work of art or a design thereof ~~shall have~~has been submitted to and approved by the Governor acting with
41 the advice and counsel of the ~~Council,~~ provided that nothing in this Board.

42 This subsection G shall ~~have application~~not apply to the Virginia Museum of Fine Arts or museums operated in
43 conjunction with art or architectural departments at ~~state~~public colleges and universities in Virginia.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 2.1-488.6. Assistance to Council by Division.~~

46 ~~The Division shall provide assistance to the Art and Architectural Review Board in the undertaking of its~~
47 ~~responsibilities.~~

48 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 2.2-2400 at the
49 beginning of this article.

50 Article 2.

51 Chief Information Officer Advisory Board.

52 ~~§ 2.1-51.49~~ 2.2-2403. Chief Information Officer Advisory Board ~~created;~~ purpose; membership; ~~duties;~~
53 compensation.

1 A. ~~There is hereby established the~~ The Chief Information Officer Advisory Board (the "Board") is established as an
2 advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board
3 shall be to advise the Chief Information Officer (the "CIO") on the proper planning, practical acquisition, effective
4 development, and efficient use of information technology to serve the needs of agencies and institutions of higher education
5 in the Commonwealth.

6 B. ~~Persons appointed to the Board shall be selected for their knowledge of, background in, or experience with~~
7 ~~information technology in a private, for-profit or not-for-profit organization. No employee of any public body shall be eligible for~~
8 ~~appointment to the Board.~~

9 C. ~~The Board shall consist of twelve members who shall be appointed by the Governor to serve at his pleasure.~~
10 ~~Persons appointed to the Board shall be selected for their knowledge of, background in, or experience with information~~
11 ~~technology in a private, for-profit or not-for-profit organization. No employee of any public body shall be eligible for~~
12 ~~appointment to the Board.~~ The Governor shall designate one member as the chairman.

13 C. ~~Of the members first appointed, four shall be appointed for terms of four years, four for terms of three years, and~~
14 ~~four for terms of two years. Thereafter, the successors to the persons first appointed all appointments shall be appointed for~~
15 ~~terms of four years. Any vacancy occurring other than by expiration of a term shall be filled by the Governor for the unexpired~~
16 ~~term.~~

17 D. The Board shall meet quarterly and at such other times as may be called by the CIO.

18 E. The disclosure requirements of subsection B of § ~~2-1-639.43~~ 2.2-3114 of the State and Local Government Conflict
19 of Interests Act shall apply to members of the Board.

20 F. ~~Board members shall be compensated receive compensation for the performance discharge of their duties subject~~
21 ~~to the provisions of § 2-1-20.3 as provided in § 2.2-2813.~~

22 **DRAFTING NOTE:** Technical corrections only.

23 Article 3.

24 Design-Build/Construction Management Review Board.

25 ~~§ 41-41.2-3~~ 2.2-2404. Design-Build/Construction Management Review Board ~~created; membership; terms; staffing;~~
26 ~~compensation; staff; seal.~~

27 A. ~~There is hereby created the~~ The Design-Build/Construction Management Review Board, hereinafter referred to as
28 ~~the Review Board, which shall be composed (the "Review Board") is established as an advisory board, within the meaning of~~
29 ~~§ 2.2-2100, in the executive branch of state government.~~

30 B. The Board shall consist of nine members to be appointed by the Governor as follows: the Director of the Division
31 of Engineering and Buildings of the Department of General Services, or his designee; two Class A general contractors
32 selected from a list recommended by the Associated General Contractors; one architect and one engineer selected from a list
33 recommended by the Consulting Engineers Council of Virginia, the Virginia Society of the American Institute of Architects,
34 and the Virginia Society of Professional Engineers; and four representatives of public bodies other than the Commonwealth
35 selected from a list recommended by the Virginia Municipal League and the Virginia Association of Counties. Each such list,
36 other than those recommended as representatives of public bodies, shall include the names of at least four persons who are
37 experienced and actively engaged in competitive sealed bidding or competitive negotiation and in design-build or construction
38 management procedures. The list for representatives of public bodies shall include at least four persons who are experienced
39 in competitive sealed bidding or competitive negotiation and in design-build or construction management procedures. The
40 Director of the Division of Engineering and Buildings or his designee shall be a nonvoting member of the Review Board,
41 except in the event of a tie vote of the Review Board.

42 B. ~~The initial terms of the Review Board shall be as follows: three members shall be appointed for two-year terms,~~
43 ~~three members shall be appointed for three-year terms and three members shall be appointed for four-year terms. Thereafter~~

44 C. After the original appointments, all appointments shall be for terms of four years, except that appointments to fill
45 vacancies shall be for the unexpired terms. No person shall be eligible to serve for more than two successive full terms,
46 except the Director of the Division of Engineering and Buildings, who shall serve until a successor qualifies.

47 C. ~~D.~~ The Review Board shall elect its chairman and vice-chairman from among its members. ~~Members shall receive~~
48 ~~no compensation for their services as members of the Review Board, but shall receive reasonable expenses.~~

49 D. ~~The Review Board shall meet monthly to conduct its business as required by § 41-41.2-4~~ 2.2-2405. However,
50 monthly meetings may be canceled by the chairman if there is no business before the Review Board. Five members shall
51 constitute a quorum.

52 E. Members of the Review Board shall receive no compensation for their services, but shall be reimbursed for all
53 reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

54 E. ~~F.~~ Such staff support as is necessary for the conduct of the Review Board's business shall be furnished by the
55 Division of Engineering and Buildings of the Department of General Services pursuant to § 2-1-483.1-2 2.2-1134.

1 | ~~F-G.~~ The Review Board shall adopt a seal by which it shall authenticate its proceedings.

2 | **DRAFTING NOTE:** Technical corrections. This section has been relocated here from Title 11 as a more appropriate
3 | placement. The Virginia Public Procurement Act, formerly in Title 11, has been relocated to proposed Title 2.2.

4 | ~~§ 11-41.2:4 2.2-2405. Duties-Powers and duties~~ of the Design-Build/Construction Management Review Board;
5 | ~~transitional provisions relating to regulations.~~

6 | A. The Review Board shall have the ~~following duties~~power and duty to:

7 | 1. Review submissions by public bodies other than the Commonwealth of draft or adopted ordinances or resolutions
8 | to determine if the process for the selection, evaluation and award of a design-build or construction management contract is
9 | in compliance with the provisions of subdivision A, 1, of ~~§ 11-41.2:2 2.2-4308~~;

10 | 2. Determine if the public body has complied with the provisions of ~~§ 11-41.2:2 2.2-4308~~ relating to the retention of a
11 | licensed architect or engineer;

12 | 3. Review the findings and the basis of such findings submitted by the public body to determine if the public body
13 | has complied with the requirements of ~~§ 11-41.2:2 2.2-4308~~ and that the findings made by the public body pursuant to ~~§ 11-
14 | 41.2:2 2.2-4308~~ are not unreasonable;

15 | 4. Develop guidelines relating to the documents and information to be reviewed by the Review Board;

16 | 5. Make post-project evaluations of construction projects procured by design-build or construction management
17 | contracts entered into by public bodies other than the Commonwealth, including cost and time savings, effectiveness of the
18 | selection, evaluation and award of such contracts, and the benefit to the public body; and

19 | 6. Report to the General Assembly and the Governor on or before December 1, 1999, and again on or before
20 | December 31, 2002, concerning the Review Board's evaluation of and findings regarding all design-build and construction
21 | management construction undertaken by public bodies other than the Commonwealth ~~since July 1, 1996 within the reporting~~
22 | ~~year~~, and any recommendations relating to future use of design-build or construction management contracts by such public
23 | bodies.

24 | B. ~~On or before July 1, 1997, the~~ The Review Board shall adopt regulations, as it deems appropriate, based on the
25 | substantive requirements of Chapter IX of the Capital Outlay Manual of the Commonwealth, for a two-step competitive
26 | negotiation process which shall be applied to design-build and construction management projects undertaken by public
27 | bodies other than the Commonwealth. For construction management projects, such regulations shall also include applicable
28 | provisions of the Required Construction Management Contract Terms of the Capital Outlay Manual. Such regulations shall
29 | also allow the Review Board to approve deviations from provisions of the Capital Outlay Manual that it deems appropriate.
30 | ~~Such regulations, upon final adoption, shall supersede the provisions of subdivisions A 1 a and A 1 b of § 11-41.2:2-~~
31 | ~~Regulations of the Review Board shall be adopted in accordance with the Administrative Process Act (§ 9-6.14:1 2.2-4000 et~~
32 | ~~seq.), except that regulations adopted pursuant to this subsection during the Review Board's first year of operation shall not~~
33 | ~~be subject to the Administrative Process Act. Thereafter, all regulations shall be adopted in accordance with the~~
34 | ~~Administrative Process Act.~~

35 | **DRAFTING NOTE:** Technical corrections. This section comes from existing § 11-41.2:4 and language shown as stricken has
36 | been deleted as obsolete.

37 | ~~§ 11-41.2:5 2.2-2406.~~ Review by the Review Board for design-build or construction management approval; effect of
38 | disapproval; review of Review Board decision.

39 | The Review Board shall conduct such inquiry it deems appropriate and may require the submission of additional
40 | documents or information by the public body, in a form prescribed by the Review Board, to determine if the public body has
41 | complied with the provisions of ~~§ 11-41.2:2 2.2-4308~~.

42 | Within sixty days of the receipt of the request for review, the Review Board shall render a decision, unless a different
43 | timetable is agreed to by the public body. If the Review Board determines that the public body has complied with the
44 | provisions of ~~§ 11-41.2:2 2.2-4308~~ and the findings made by the public body pursuant to subdivision A, 2, of ~~§ 11-41.2:2 2.2-
45 | 4308~~ are not unreasonable, the Review Board shall approve such use. If the Review Board determines that (i) the public body
46 | has not complied with the provisions of ~~§ 11-41.2:2 2.2-4308~~ or (ii) the findings made by the public body pursuant to
47 | subdivision A, 2, of ~~§ 11-41.2:2 2.2-4308~~ are unreasonable, it shall disapprove such use, and the public body shall not use a
48 | design-build or construction management contract to procure construction for the proposed project. If no decision is made by
49 | the Review Board within the sixty-day period or as otherwise agreed to by the public body, the proposed use of a design-build
50 | or construction management contract shall be deemed approved.

51 | Any public body other than the Commonwealth which has been aggrieved by any action of the Review Board shall
52 | be entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the
53 | Administrative Process Act (~~§ 9-6.14:1 2.2-4000~~ et seq.).

54 | **DRAFTING NOTE:** Technical corrections. This section comes from existing § 11-41.2:5.

Article 4.

Migrant And Seasonal Farmworkers Board.

~~§ 9-149. 2.2-2407. Commission continued as Board; duties Migrant and Seasonal Farmworkers Board; purpose; membership; terms; quorum; compensation; staff; annual report.~~

~~The Migrant and Seasonal Farmworkers Commission is continued and shall hereafter be known as the Migrant and Seasonal Farmworkers Board. The Board shall: A. The Migrant and Seasonal Farmworkers Board (the "Board") is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board shall be to:~~

1. Provide for the coordination and evaluation of state and federal services and, to the degree feasible, other governmental, public and private agency services to migrant and seasonal farmworkers within the Commonwealth;

2. Identify and evaluate the needs of migrant and seasonal farmworkers and needs of employers of such workers;

3. Study problems of the target population, provide background information, and recommend options for solutions along with impact projections of such recommendations to the General Assembly, governmental, public and private agencies; and

4. Encourage and foster the development of area migrant and seasonal farmworkers councils for the purpose of seeking problem resolution and communication at the local level.

~~B. The Board shall consist of fifteen members who shall be appointed by the Governor to serve at his pleasure. The Board shall include representatives of grower communities, migrant and seasonal farmworkers and crew leaders, if practical, and government, public and private agencies and interest groups or citizens concerned with migrant and seasonal farmworkers.~~

~~C. A majority of the members of the Board shall constitute a quorum.~~

~~D. Members of the Board shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.~~

~~E. The Department of Labor and Industry shall provide staff support to the Board and serve as fiscal agent for any funds received.~~

~~F. The Department of Labor and Industry shall submit a biennial report to the Governor and General Assembly on or before October 1 of each even-numbered year on the activities of the Board. The biennial report shall be distributed in accordance with § 2.2-1127.~~

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 9-149, subsection B is the first two sentences from § 9-150, subsection D is the last sentence from § 9-150, and subsections E and F are from § 9-152. Subsection C was added to clarify the quorum requirements for the Board.

~~§ 9-150. Membership; terms; compensation.~~

~~The Board shall consist of fifteen members who shall be appointed by the Governor and who shall serve at his pleasure. The membership shall include representatives of grower communities, migrant and seasonal farmworkers and crew leaders, if practical, and government, public and private agencies and interest groups or citizens concerned with migrant and seasonal farmworkers. Members of the Board shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred as a result of their membership on the Board.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsections B and D in proposed § 2.2-2407.

~~§ 9-151 2.2-2408. Authority Powers and duties of Board.~~

~~The Board shall serve as an advisory body to the Governor, General Assembly and service deliverers and shall have the following authority power and duty to:~~

~~1. To request Request and receive from any state department, division, board, bureau, commission or other agency, information, assistance and cooperation as will enable it to properly perform its duties;~~

~~2. To request Request, in the name of the Board, information for any governmental, public or private agency, or individual, information, assistance and cooperation as will enable it to carry out its specified functions;~~

~~3. To disperse Disperse information to public and private bodies;~~

~~4. To request Request and receive grants and funds from governmental, public and private agencies and foundations and, with those funds, to enter into agreements and contracts necessary or incidental to the purposes of the Board;~~

~~5. To establish Establish citizen panels as may be requisite or expedient in fulfilling the objectives of the Board; and~~

~~6. To request Request and receive, in the name of the Board and for its benefit and that of the Interagency Migrant Worker Policy Committee, periodic reports from persons or entities receiving federal grants or other federal funding for the purpose of assisting the Commonwealth's migrant and seasonal farm worker population.~~

1 DRAFTING NOTE: Technical corrections only.

2 ~~§ 9-152. Staff support; services; annual report.~~

3 ~~The Department of Labor and Industry shall provide staff support to the Migrant and Seasonal Farmworkers Board~~
4 ~~and serve as fiscal agent for any funds received.~~

5 ~~The Department shall submit a biennial report to the Governor and General Assembly on or before October 1 of~~
6 ~~each even numbered year. The biennial report shall be distributed in accordance with § 2-1-467.~~

7 DRAFTING NOTE: Technical corrections. This section now appears as subsections E and F in proposed § 2.2-2407.

8 Article 5.

9 Personnel Advisory Board.

10 ~~§ 2-1-113.1 2.2-2409. Personnel Advisory Committee continued as Personnel Advisory Board; membership; terms;~~
11 ~~quorum; compensation.~~

12 ~~The Personnel Advisory Committee is continued and shall hereafter be known as the Personnel Advisory Board. A.~~
13 The Personnel Advisory Board (the "Board") is established as an advisory board, within the meaning of § 2.2-2100, in the
14 executive branch of state government. The Board shall consist of eleven members, as follows: four management state
15 employees; four nonsupervisory state employees; and three members from the public at large, who shall be appointed by the
16 Governor and subject to confirmation by the General Assembly. The members shall serve for four-year terms and no member
17 shall serve for more than two full successive terms. In addition, the Director of the Department of Human Resource
18 Management and the Director of the Department of Employment Dispute Resolution shall serve permanently as ex officio
19 members without voting privileges.

20 B. The members shall serve for four-year terms and no member shall serve for more than two full successive terms.
21 Vacancies shall be filled in the manner of the original appointments.

22 C. The Board shall meet at least once every three months, and on the call of the chairman. A chairman of the Board
23 shall be elected annually by the Board. A majority of the members of the Board shall constitute a quorum.

24 D. Members of the Board shall serve without compensation, but shall be reimbursed for all reasonable and
25 necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

26 DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subse
27 A is the second sentence of § 2.1-113.1, subsection B is the third and fourth sentences from § 2.1-113.1, subsection C is
28 last sentence of § 2.1-113.1 and the first sentence of § 2.1-113.2, and subsection D is the last sentence from § 2.1-113.2. In
29 subsection C, quorum requirements was added to clarify the quorum requirements for the Board.

30 ~~§ 2-1-113.2. Same; meetings; expenses.~~

31 ~~The Personnel Advisory Board shall meet at least once every three months, and on the call of the chairman, when,~~
32 ~~in his opinion, additional meetings are necessary. Members of the Board shall serve without compensation, but shall be~~
33 ~~reimbursed for actual expenses incurred in the discharge of their duties.~~

34 DRAFTING NOTE: Technical corrections. This section now appears as subsections C and D in proposed § 2.2-2409 supra.

35 ~~§ 2-1-113.3 2.2-2410. Personnel Advisory Committee continued as Personnel Advisory Board; powers Powers and~~
36 ~~duties of Board.~~

37 ~~The Personnel Advisory Board shall exercise the following powers and duties and such others as may be provided~~
38 ~~by law have the power and duty to:~~

39 1. Advise the Governor, the Director of the Department of Human Resource Management and the Director of the
40 Department of Employment Dispute Resolution on all matters relating to personnel administration.

41 2. Review all public employer-employee relations throughout the Commonwealth.

42 3. Review the Department of Employment Dispute Resolution's program of employee-management relations and
43 make recommendations to improve communications between employees and agencies and instrumentalities of the
44 Commonwealth.

45 4. Carry out such other functions as the Governor deems appropriate.

46 5. Review the Department of Human Resource Management's training and management programs, compensation
47 and classification practices, benefit programs, and recruitment practices.

48 DRAFTING NOTE: Technical corrections only.

1 Article 6.

2 Public Guardian And Conservator Advisory Board.

3 ~~§ 2.1-373.13 2.2-2411.~~ Public Guardian and Conservator Advisory Board ~~created; duties purpose;~~ membership;
4 terms.

5 ~~There is hereby created the~~ A. The Public Guardian and Conservator Advisory Board (the "Board") ~~which shall be~~
6 ~~established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The~~
7 ~~purpose of the Board shall be to report to and advise the Commissioner of the Department of Mental Health, Mental~~
8 ~~Retardation and Substance Abuse Services on the means for effectuating the purposes of this article and shall assist in the~~
9 coordination and management of the local and regional programs appointed to act as public guardians and conservators
10 pursuant to Chapter 4 (§ 37.1-128.01 et seq.) of Title 37.1. ~~The Board shall provide advice and counsel on the provision of~~
11 ~~high quality guardianship service and avoidance of conflicts of interest, promote the mobilization of activities and resources of~~
12 ~~public and private sector entities to effectuate the purposes of this article, and make recommendations regarding appropriate~~
13 ~~legislative and executive actions, including, but not limited to, recommendations governing alternatives for local programs to~~
14 ~~follow upon repeal of the authority granted to the courts pursuant to § 37.1-134.19 to appoint the sheriff as guardian or~~
15 ~~conservator when the maximum staff to client ratio of the local program is met or exceeded.~~

16 B. The Board shall consist of no more than fifteen members who shall be appointed by the Governor as follows: one
17 representative of the Virginia Guardianship Association; one representative of the Virginia Area Agencies on Aging, one
18 representative of the Virginia State Bar, one active or retired circuit court judge upon recommendation of the Chief Justice of
19 the Supreme Court, one representative of the Association of Retarded Citizens, one representative of the Virginia Alliance for
20 the Mentally Ill, one representative of the Virginia League of Social Service Executives, one representative of the Association
21 of Community Service Boards, the Commissioner of the Department of Social Services or his designee, the Commissioner of
22 the Department of Mental Health, Mental Retardation and Substance Abuse Services or his designee, the Director of the
23 Virginia Department for the Rights of Virginians with Disabilities or his designee, and one person who is a member of the
24 Commonwealth Council on Aging and such other individuals who may be qualified to assist in the duties of the Board.

25 C. The Commissioners of the Departments of Social Services and Mental Health, Mental Retardation and Substance
26 Abuse Services or their designees, the Director of the Virginia Department for the Rights of Virginians with Disabilities or his
27 designee, and the representative of the Commonwealth Council on Aging, shall serve terms coincident with their terms of
28 office or in the case of designees, the term of the Commissioner or Director. Of the other members of the Board, five of the
29 appointees shall serve for four-year terms and the remainder shall serve for three-year terms. No member shall serve more
30 than two successive terms. A vacancy occurring other than by expiration of term shall be filled for the unexpired term.

31 D. Each year, the Board shall elect a chairman and a vice-chairman from among its members. Five members of the
32 Board shall constitute a quorum.

33 E. Members shall receive no compensation for their services but shall be reimbursed for all reasonable and
34 necessary expenses incurred in the discharge of their duties ~~as members of the Board as provided in § 2.2-2823).~~

35 **DRAFTING NOTE:** Technical corrections. The language shown stricken above now appears in proposed § 2.2-2412, relating
36 to the powers and duties of the Board.

37 § 2.2-2412. Powers and duties of the Board.

38 The Board shall have the power and duty to:

39 1. Assist in the coordination and management of the local and regional programs appointed to act as public
40 guardians and conservators pursuant to Chapter 4 (§ 37.1-134.6 et seq.) of Title 37.1;

41 2. Provide advice and counsel on the provision of high quality guardianship service and avoidance of conflicts of
42 interest;

43 3. Promote the mobilization of activities and resources of public and private sector entities to effectuate the purposes
44 of this article; and

45 4. Make recommendations regarding appropriate legislative and executive actions, including, but not limited to,
46 recommendations governing alternatives for local programs to follow upon repeal of the authority granted to the courts
47 pursuant to § 37.1-134.19 to appoint the sheriff as guardian or conservator when the maximum staff-to-client ratio of the local
48 program is met or exceeded.

49 **DRAFTING NOTE:** Technical corrections. This proposed section is derived from the first paragraph of existing § 2.1-373.13
50 supra.

51 Article 7.

52 Small Business Advisory Board.

53 § 2.1-548.40 2.2-2413. Creation of Small Business Advisory Board; membership; terms; quorum; compensation.

1 ~~There is hereby created the~~ A. The Small Business Advisory Board (the "Board") is established as an advisory
2 board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist of the
3 ~~Chairman of the Small Business Financing Authority and the Director of the Department of Minority Business Enterprise or~~
4 ~~their designees as voting ex officio members; following members; thirteen voting members~~ appointed by the Governor and
5 subject to confirmation by the General Assembly; the Chairman of the Small Business Financing Authority and the Director of
6 the Department of Business Assistance and the District Director for Virginia of the U.S. Small Business Administration or their
7 designees as nonvoting ex officio members. The appointed members of the Board shall represent small businesses as
8 defined by the Small Business Financing Act (§ 9-197 et seq.). There shall be at least one member appointed from each
9 congressional district who does business in that district and three members appointed at large from within the
10 Commonwealth.

11 B. Terms of the appointed members shall be for four years except that appointments to fill vacancies shall be for the
12 unexpired terms. No member appointed by the Governor shall serve more than two complete terms in succession.

13 C. The Governor shall appoint one member of the Board to be chairman. The Board shall annually elect one of its
14 members as vice-chairman, and shall also elect annually a secretary, who need not be a member of the Board. The
15 chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. In the absence of both the
16 chairman and the vice-chairman at any meeting, the Board shall elect a chairman pro tempore, who shall preside at such
17 meeting.

18 D. The Board shall meet at least semiannually, at the call of the chairman, Director of the Department of Business
19 Assistance or Governor or at the request of a majority of the Board members. A majority of the members of the Board shall
20 constitute a quorum.

21 E. Members of the Board shall serve without compensation but shall be reimbursed for all reasonable and necessary
22 expenses incurred in the discharge of their duties as provided in § 2.2-2825.

23 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
24 A and B are § 2.1-548.49, and subsections C, D, and E are § 2.1-548.50.

25 § 2.1-548.50. Officers of Board.

26 ~~The Governor shall appoint one member of the Board to be Chairman. The Board shall annually elect one of its~~
27 ~~members as Vice Chairman, and shall also elect annually a Secretary, who may or may not be a member of the Board. The~~
28 ~~Chairman, or in his absence, the Vice Chairman, shall preside at all meetings of the Board. In the absence of both the~~
29 ~~Chairman and the Vice Chairman at any meeting, the Board shall elect a chairman pro tempore, who shall preside at such~~
30 ~~meeting.~~

31 ~~The Board shall meet at least semiannually, at the call of the Chairman, Director of the Department of Business~~
32 ~~Assistance or Governor or at the request of a majority of the Board members. A majority of the members shall constitute a~~
33 ~~quorum for the transaction of the business of the Board, and no vacancy in the membership of the Board shall impair the right~~
34 ~~of a quorum to exercise all the duties of the Board. Members of the Board shall serve without compensation but shall be~~
35 ~~reimbursed for actual expenses incurred in the discharge of their official duties, pursuant to § 14.1-5.~~

36 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections C, D, and E in proposed § 2.2-2413
37 supra.

38 § 2.1-548.52. State agencies to furnish information and assistance.

39 ~~All agencies of the Commonwealth shall assist the Board upon request and furnish such information and assistance~~
40 ~~as the Board may require in the discharge of its duties.~~

41 **DRAFTING NOTE:** Technical corrections. This section was consolidated with other like sections and now appears in Chapter
42 21, General Provisions, at the beginning of this Part D.

43 § 2.1-548.54 2.2-2414. Functions/Duties of the Board.

44 The Board shall advise the Department of Business Assistance on the small business programs, including, but not
45 limited to, locally based centers to assist and develop small businesses. It shall make recommendations to the Director, the
46 Secretary of Commerce and Trade, and the Governor concerning the actions that the Department of Business Assistance and
47 the state government might take to enhance the growth of small businesses. Additionally, the Board shall be a resource to the
48 Department of Business Assistance, the Secretary of Commerce and Trade, the Executive Director of the Virginia Economic
49 Development Partnership, and the Governor as they conduct the economic development efforts of the Commonwealth.

50 **DRAFTING NOTE:** Technical corrections only.

51 Article 8.

52 Treasury Board.

53 § 2.1-178 2.2-2415. Treasury Board generally membership; chairman; quorum; compensation.

2 ~~The State Treasurer, the Comptroller, the Tax Commissioner, and four additional members to be appointed by the~~
3 ~~Governor, subject to confirmation by the General Assembly, if in session when such appointment is made, and if not in~~
4 ~~session, at the first session subsequent to such appointment, which members shall serve at the pleasure of the Governor,~~
5 ~~shall constitute and be known as the Treasury Board. A. The Treasury Board (the "Board") is established as a policy board,~~
6 ~~within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist of seven members to~~
7 ~~be appointed as follows: four members to be appointed by the Governor, subject to confirmation by the General Assembly,~~
8 ~~who shall serve at the pleasure of the Governor; the State Treasurer, the Comptroller, and the Tax Commissioner. The~~
9 ~~members appointed by the Governor should have a background and experience in financial management and investments.~~
10 ~~The State Treasurer, the Comptroller, and the Tax Commissioner shall serve terms coincident with their terms of office.~~
11 ~~Vacancies shall be filled in the manner of the original appointment.~~

12 ~~B. The State Treasurer shall act as the Chairman chairman, and the Board shall elect a Secretary either from its own~~
13 ~~membership or from without secretary who need not be a member of the Board. The Board shall have regularly scheduled~~
14 ~~meetings at least monthly, and shall keep a regular and sufficient set of books, wherein shall be recorded which include a~~
15 ~~record of all of their proceedings and any action taken by them with respect to any funds which by any provision of law are~~
16 ~~required to be administered by the Treasury Board. Four members of the Board shall constitute a quorum. The members~~
17 ~~appointed by the Governor should have a background and experience in financial management and investments, and~~

18 ~~C. Members of the Board appointed by the Governor shall receive necessary traveling and other compensation,~~
19 ~~including all reasonable and necessary expenses incurred in performing official the discharge of their duties as members of~~
20 ~~the Board as provided in § 2.2-2813.~~

21 **DRAFTING NOTE:** Technical corrections only.

22 § 2-1-179 2.2-2416. Powers and duties of Treasury Board.

23 ~~The powers and duties of the Treasury Board shall be as follows~~ have the power and duty to:

24 1. ~~To exercise~~ Exercise general supervision over all investments of state funds;

25 2. ~~To give~~ Give advice and supervision in the financing of state buildings and to make recommendations, as
26 requested, to the Governor on methods by which capital outlay requirements of the Commonwealth, including its agencies
and institutions, may be financed;

27 3. ~~To control~~ Control and manage all sinking funds and other funds in possession of the Commonwealth in a
fiduciary capacity;

28 4. ~~To administer~~ Administer the Virginia Security for Public Deposits Act (§ 2-1-359 2.2-4400 et seq.);

29 5. ~~Notwithstanding any provisions to the contrary, to make~~ Make recommendations to the Governor, ~~notwithstanding~~
30 ~~any provisions to the contrary, on proposed bond issues or other financing arrangements, to;~~ approve the terms and structure
31 of bonds or other financing arrangements executed by or for the benefit of educational institutions and state agencies other
32 than independent state authorities, including bonds or other financing arrangements secured by leases, lease purchase
33 agreements, financing leases, capital leases or other similar agreements; and agreements relating to the sale of bonds;

34 6. ~~As to any tax exempt bonds for which it has issuing authority, either by statute or by act of the General Assembly,~~
35 ~~to take~~ Take or cause to be taken and omit to take all actions, ~~as to any tax exempt bonds for which it has issuing authority,~~
36 ~~either by statute or by act of the General Assembly, the taking or omission of which is necessary on behalf of the~~
37 ~~Commonwealth to prevent such bonds from being or becoming subject to federal income taxation or being considered to be~~
38 ~~"arbitrage bonds" within the meaning of federal tax laws, including compliance with the arbitrage rebate provisions thereof;~~

39 7. ~~Notwithstanding any provisions to the contrary, to approve~~ Approve, notwithstanding any provisions to the
40 contrary, the terms and structure of bonds or other financing arrangements executed by or for the benefit of state agencies,
41 boards and authorities where debt service payments on such bonds or other financing arrangements are expected by such
42 agency, board or authority to be made, in whole or in part, directly or indirectly, from appropriations of the Commonwealth,
43 including bonds or other financing arrangements secured by leases, lease purchase agreements, financing leases, capital
44 leases or other similar agreements, and agreements relating to the sale of bonds;

45 8. ~~To establish~~ Establish debt structuring guidelines for bonds or other financing arrangements executed by or for
46 the benefit of all state agencies, institutions, boards, and authorities where the debt service payments on such bonds or other
47 financing arrangements are expected to be made, in whole or in part, directly or indirectly, from appropriations of the
48 Commonwealth, in which guidelines the Treasury Board may, in its sole discretion, include such items as it deems necessary
49 and appropriate, including, but not limited to, defining terms such as "terms and structure" and "bonds and other financing
50 arrangements" and exempting from its review and approval pursuant to subdivision 5 or 7 of this section (a) specific bond
51 issues and other financing arrangements, (b) certain types or classes of bond issues and other financing arrangements, and
52 (c) bond issues and other financing arrangements that are below a stated dollar amount;

53 9. ~~To do~~ Do all acts and things necessary or convenient to efficiently carry out and enforce the powers granted to
54 and duties imposed on it by law, including delegating to the State Treasurer or to a committee composed of not less than
three members of the Treasury Board such powers and duties, as it ~~may deem~~ deems proper, to the extent designated and
55 permitted by the Treasury Board;

1 10. ~~To exercise~~ Exercise such other powers and perform such other duties ~~as may be~~ conferred or imposed upon
2 by law, including the local government investment pool authorized by Chapter 46 (§ 2.2-4600 et seq.) of this title; and

3 11. ~~To do~~ Do all acts and things necessary or convenient to wind ~~down~~ up the affairs of, and protect the
4 Commonwealth's interests in such matters that may survive the termination of the State Education Assistance Authority, the
5 Virginia Student Assistance Authorities, and the Virginia Education Loan Authority. Nothing herein shall be construed to
6 amend, enhance or otherwise alter such commitments, security interests, guarantees or other pledges entered into by the
7 State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority,
8 acting in their official capacity and effective on or before March 31, 1997.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 2.1-170.2 2.2-2417.~~ Approval of financial terms of certain contracts; using agencies to procure certain financial
11 services through Treasury Board.

12 A. The ~~Treasury Board, or the Board's~~ its designee, shall review and approve the financial terms of all contracts for
13 the purchase or financing of the purchase by agencies, institutions, boards and authorities which receive appropriations from
14 the Commonwealth, i.e., the using agencies, of personal property, including personal property to be affixed to realty, whether
15 by lease-purchase, instalment purchase or otherwise, where payment of the purchase price is deferred through instalment
16 payments, includes the payment of interest, or is otherwise financed by the seller, lessor, or third parties.

17 B. The Board may specifically exempt from its review and approval specific purchases, and purchases below a
18 stated amount, and may ~~promulgate rules and adopt~~ regulations governing the financial terms of contracts, as described in
19 subsection A ~~herein~~, including but not limited to the authority to negotiate with a seller or lessor the public or private sale of
20 securities, the security interest which may be granted to a seller or lessor, and the types and value of property which may be
21 acquired under such contracts. Approval of the Board or its designee and compliance with ~~rules and regulations issued~~
22 adopted pursuant to this section shall be required in addition to and notwithstanding any other provision of law pertaining to
23 the review, approval or award of contracts by agencies and institutions of the Commonwealth.

24 C. Notwithstanding any of the foregoing and except as the Board shall direct and authorize otherwise, every using
25 agency shall procure through the ~~Treasury Board~~ all contracts for the financing of the purchases described in subsection A or
26 other financial services needed for the purpose of financing such purchases. The Board ~~is hereby authorized to may~~ acquire
27 such financing services, ~~which may include including, but are is~~ not limited to employing financial advisors and private or
28 public placement agents.

29 D. An agency, institution, board, or authority which receives appropriations from the Commonwealth shall pro-
30 state agency energy efficiency projects under this section. State agency energy efficiency projects may include perso-
31 property, the installation or modification of an installation in a building, and professional, management, and other special
32 services which are primarily intended to reduce energy consumption and demand, or allow the use of an alternative energy
33 source, and which may contain integral control and measurement devices.

34 **DRAFTING NOTE:** Technical corrections only.

35 ~~§ 2.1-170.3 2.2-2418.~~ Use of bond anticipation notes by the Treasury Board.

36 Whenever the General Assembly has enacted legislation pursuant to Article X, Section 9 (b), (c), or (d) of the
37 Constitution of Virginia authorizing the issuance of bonds for capital projects of the Commonwealth or any state agency,
38 institution, board, or authority (a "state instrumentality") where debt service payments on ~~such the~~ bonds are expected to be
39 made in whole or in part from appropriations of the Commonwealth, the ~~Treasury Board, by and~~ with the consent of the
40 Governor, ~~is hereby authorized to may~~ borrow money in anticipation of the issuance of ~~such the~~ bonds to provide funds, with
41 any other available funds, to pay the costs of acquiring, constructing, renovating, enlarging, improving, and equipping any one
42 or more of the capital projects for which such bonds have been authorized. Any such borrowing shall be evidenced by notes
43 of the Commonwealth ~~which that~~ shall be in such form, shall be executed in such manner, shall bear interest at such ~~rate or~~
44 rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as
45 the ~~Treasury Board, or the State Treasurer~~ when authorized by the ~~Treasury Board~~, may determine. Such notes may bear
46 interest at a rate ~~or rates~~ subject to inclusion in gross income for federal income tax purposes as ~~may be~~ determined by the
47 ~~Treasury Board, by and~~ with the consent of the Governor. Such notes may be made payable from the proceeds of the bonds,
48 other notes, or other sources of funds authorized by the General Assembly. The proceeds of the notes, to the extent not
49 required to pay the principal or interest on maturing notes, or expenses associated therewith, shall be paid or otherwise made
50 available to the Commonwealth or appropriate state instrumentality to pay the costs of such capital projects; ~~however,~~
51 However, the undertaking and obligation of (i) the ~~Treasury Board~~ to make such note proceeds available to the state
52 instrumentality and (ii) the state instrumentality to pay or provide for the payment of the interest and principal coming due on
53 the notes and to issue its own bonds or otherwise retire the notes within five years of the date of their initial issuance shall be
54 set forth in a written agreement between the ~~Treasury Board~~ and the state instrumentality. No such notes shall be issued by
55 the ~~Treasury Board~~ for or on behalf of a state instrumentality unless the ~~Treasury Board shall have first determined~~
56 determines that such written agreement provides reasonable assurance of the full and timely payment of the debt service on
57 the notes.

1 No law authorizing the issuance of bonds and notes for which bond anticipation notes have been issued by the
2 ~~Treasury Board~~ shall be repealed or otherwise vitiated without first providing for the payment of the related bond anticipation
3 notes of the ~~Treasury Board~~.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 2.1-170.4 2.2-2419.~~ Issuance of refunding bonds by the Treasury Board.

6 The ~~Treasury Board~~ is authorized, by and may, with the consent of the Governor, to sell and issue, from time to
7 time, refunding bonds of the Commonwealth to refund any or all of the Commonwealth's bonds or other debt. The aggregate
8 principal amount of such refunding bonds shall not exceed the amount required to redeem or otherwise provide for the
9 payment of the unpaid principal of and interest on and any redemption premium payable on the bonds to be refunded to their
10 date of redemption or payment, plus all expenses incurred in such refunding transaction.

11 **DRAFTING NOTE:** Technical corrections only.

12 ~~§ 2.1-170.5 2.2-2420.~~ Combined issuance of general obligation debt by the Treasury Board.

13 Bonds and notes issued by the ~~Treasury Board~~ may be issued and sold at the same time with other bonds and notes
14 issued by the ~~Treasury Board~~ either as separate issues, a combined issue, or a combination of both.

15 **DRAFTING NOTE:** Technical corrections only.

16 Article 9.

17 Veterans' Affairs, Board On.

18 ~~§ 2.1-744 2.2-2421.~~ Board on Veterans' Affairs; ~~appointment membership; terms; quorum; compensation; staff.~~

19 A. ~~There shall be a Board on Veterans' Affairs, sometimes referred to in this chapter as "the Board," in the~~
20 ~~Department of Veterans' Affairs consisting of ten members appointed by the Governor. Three~~ The Board on Veterans' Affairs
21 (the "Board") is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state
22 government. The Board shall consist of ten members appointed by the Governor. Three members shall be chosen from a list
23 of nominees submitted by the Speaker of the House of Delegates and two members shall be chosen from a list of nominees
24 submitted by the Senate Committee on Privileges and Elections. In making appointments the Governor shall endeavor to
25 select appointees of such qualifications and experience as will qualify them to advise the Department and the Director on
26 matters affecting the veterans of Virginia and afford a balanced geographical representation on the Board. No appointee to
27 the Board shall be an officer or employee of the Department.

28 B. ~~Members~~ After the original appointments, members of the Board shall be appointed for terms of four years each
29 beginning July 1, 1988. Of the members first appointed, two shall be for terms of one year, two shall be for terms of two years,
30 three shall be for terms of three years, and three shall be for terms of four years. Thereafter, the appointments shall be for
31 terms of four years, except that any appointment to fill a vacancy shall be for the unexpired term. No person shall be eligible
32 to serve more than two successive full terms. However, any person heretofore or hereafter appointed to fill a vacancy may be
33 eligible for two additional successive full terms after the term of the vacancy for which he was appointed has expired.
34 ~~Members of the Board may be suspended or removed by the Governor at his pleasure.~~

35 C. ~~Before entering upon the discharge of his duties, each member of the Board shall take the usual oath of office.~~
36 The Board shall select a chairman from its membership and, pursuant to rules adopted by it, may elect one of its members as
37 vice-chairman. It shall elect one of its members as secretary. The Board shall meet at such times as it deems appropriate or
38 on call of the chairman. A majority of the members of the Board shall constitute a quorum.

39 D. The Board members shall receive compensation for the performance of their duties as provided in § 2.2-2813.

40 E. The Department shall serve as staff to the Board.

41 **DRAFTING NOTE:** Technical corrections. Existing subsection C has been deleted as duplicative of existing law. This
42 proposed section is comprised of the following existing sections: subsections A and B are § 2.1-741, subsection C is § 2.1-
43 742, and subsection E is § 2.1-744. Subsection D was added to clarify the compensation received by the Board as is
44 currently provided in § 2.1-20.4. The last sentence in subsection B has been deleted as contrary to general law (§ 2.1-43),
45 which provides the method for the removal of members of boards, councils, and commissions, etc.

46 ~~§ 2.1-742. Board officers and meetings.~~

47 ~~The Board shall select a chairman from its membership and, pursuant to rules adopted by it, may elect one of its~~
48 ~~members as vice chairman. It shall elect one of its members as secretary. The Board shall meet at such times as it deems~~
49 ~~appropriate and on call of the chairman when, in his opinion, meetings are expedient or necessary. A majority of the current~~
50 ~~membership of the Board shall constitute a quorum for all purposes.~~

51 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2421 supra.

1 ~~§ 2.1-743~~ 2.2-2422. ~~General powers~~ Powers and duties of Board.

2 A. The Board shall have the ~~following powers and duties~~ power and duty to:

- 3 1. ~~To advise~~ Advise the Director and, when requested, to confer with and advise him upon such matters as may
4 arise in the performance of his duties;
- 5 2. ~~To investigate~~ Investigate questions and consider problems when requested by the Director or the Governor and
6 report its findings and conclusions;
- 7 3. ~~To initiate~~ Initiate investigations and consider problems and make recommendations to the Director or to the
8 Governor of its own motion;
- 9 4. ~~To study~~ Study all matters affecting the welfare of Virginia citizens who are veterans or dependents or survivors of
10 such veterans, and to consider and recommend legislation for their benefit;
- 11 5. ~~To keep~~ Keep advised on the administration of all laws concerning veterans and their dependents; and
- 12 6. ~~To submit~~ Submit a report to the Governor and General Assembly ninety days prior to the convening of each
13 even-numbered year Session of the General Assembly, setting forth its findings and recommendations.

14 B. The Board may make recommendations to acquire land, buildings, furnishings, and equipment for the
15 establishment of a state veterans' cemetery or cemeteries. In connection with the establishment of a cemetery, the Board
16 may make recommendations to accept gifts, apply for and receive grants, and expend funds made available by the federal
17 government, private individuals, veterans' organizations, and all other sources. The Board shall recommend to the Governor
18 candidates for the position of director of a veterans' cemetery.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§ 2.1-744. Staff for the Board.~~

21 ~~Staff to support the activities of the Board shall be provided by the Office of the Secretary of Administration and shall~~
22 ~~perform the administrative and support services that the Division of Legislative Services provided to the Commission on~~
23 ~~Veterans' Affairs prior to July 1, 1988.~~

24 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 2.2-2421 supra.

25 Article 10.

26 Virginia Geographic Information Network Advisory Board.

27 ~~§ 2.1-563.44~~ 2.2-2423. Virginia Geographic Information Network Advisory Board—~~created~~; membership; terms;
28 ~~meetings; quorum; compensation.~~

29 A. The Virginia Geographic Information Network Advisory Board (the "Board") is hereby ~~created and established as~~
30 an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall advise
31 the Geographic Information Network Division (the "Division") of the Department of Technology Planning on issues related to
32 the exercise of the Division's powers and duties.

33 B. The Board shall consist of seventeen members appointed as follows: (i) eleven members to be appointed by the
34 Governor, including: ~~four state agency officials or their designees consisting of~~ the Commonwealth Transportation
35 Commissioner, the Executive Director of the Economic Development Partnership Authority, an agency director from one of
36 the natural resources agencies, and one official from a state university, ~~or their designees~~; one elected official representing a
37 local government in the Commonwealth; one member of the Virginia Association of Surveyors; one elected official who serves
38 on a planning district commission; two representatives of utilities or transportation industries utilizing geographic data; and
39 two representatives of private businesses with expertise and experience in the establishment, operation, and maintenance of
40 geographic information systems; and (ii) five members of the General Assembly, three of whom shall be members of the
41 House of Delegates, to be appointed by the Speaker of the House of Delegates, and two of whom shall be members of the
42 Senate, to be appointed by the Senate Committee on Privileges and Elections. The Director of the Council on Information
43 Management shall serve as an ex officio, voting member. Any members of the Board who are representatives of private
44 businesses that provide geographic information services, and their companies, are precluded from contracting to provide
45 goods or services to the Division.

46 C. The gubernatorial appointees to the Board shall serve five-year terms, except that of the initial appointees, three
47 ~~initial appointees~~ shall serve three-year terms, three shall serve four-year terms, and the remainder shall serve five-year
48 terms. Members appointed by the Governor shall serve no more than two consecutive full terms. All members of the Board
49 appointed by the Governor shall be confirmed by each house of the General Assembly. Legislative members' terms shall be
50 coincident with their terms of office.

51 D. The Board shall elect from its membership a chairman, vice chairman, and any other officers deemed necessary.
52 The duties and terms of the officers shall be prescribed by the members. A majority of the Board shall constitute a quorum.
53 The Board shall meet at least quarterly or at the call of its chairman or the Director.

2 E. Members of the Board shall receive no compensation for their services, but the nongovernmental members shall
3 ~~receive actual expenses in accordance with § 14.1-5~~ be reimbursed for all reasonable and necessary expenses incurred in
4 ~~the discharge of their duties as provided in § 2.2-2825. The Board shall meet at least quarterly or at the call of its chairman or~~
5 ~~the Director.~~

5 **DRAFTING NOTE:** Technical corrections. The last sentence in proposed subsection E now appears as the last sentence in
6 subsection D.

7 Article 11.

8 Virginia-Israel Advisory Board.

9 ~~§ 9-350 2.2-2424.~~ Virginia-Israel Advisory Board ~~established; purpose; membership; terms; compensation; staff.~~

10 The Virginia-Israel Advisory Board (the "Board") ~~is hereby established and is hereafter referred to in this chapter as~~
11 ~~the "Board."~~ as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The
12 purpose of the Board shall be to advise the Governor on ways to improve economic and cultural links between the
13 Commonwealth and the State of Israel, with a focus on the areas of commerce and trade, art and education, and general
14 government.

15 B. The Board shall consist of thirty-one members to be appointed as follows: six citizen members appointed by the
16 Speaker of the House of Delegates, who may be members of the House or other state or local elected officials; six citizen
17 members appointed by the Senate Committee on Privileges and Elections, who may be members of the Senate or other state
18 or local elected officials; and thirteen members appointed by the Governor who represent business, industry, education, the
19 arts, and government; and the president, or his designee, of each of the four Jewish Community Federations serving the
20 Richmond, Northern Virginia, Tidewater and Peninsula regions. The Secretaries of Commerce and Trade, and Education, or
21 their designees shall serve as ex officio members of the Board.

22 C. Citizen members shall serve for terms of four years. The Secretaries of Commerce and Trade, and Education, or
23 their designees, shall serve terms coincident with their terms of office. Vacancies occurring other than by expiration of term
24 shall be filled for the unexpired term. Any member may be reappointed for successive terms.

25 D. The members of the Board shall elect a chairman and vice-chairman annually from among its membership. A
26 majority of the members of the Board shall constitute a quorum.

27 E. Members shall receive no compensation for their services.

28 F. The Office of the Governor shall serve as staff to the Board.

29 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
30 A is § 9-350, subsections B through E are from § 9-351, and subsection F is the first sentence from § 9-353. The second
31 sentence in subsection D was added to clarify the quorum requirements for the Board.

32 ~~§ 9-351. Membership; terms; vacancies; chairman.~~

33 ~~The Board shall consist of twenty nine members to be appointed as follows: six citizen members appointed by the~~
34 ~~Speaker of the House of Delegates, who may be members of the House or other state or local elected officials; six citizen~~
35 ~~members appointed by the Senate Committee on Privileges and Elections, who may be members of the Senate or other state~~
36 ~~or local elected officials; and thirteen members appointed by the Governor who represent business, industry, education, the~~
37 ~~arts, and government, and the president, or his designee, of each of the four Jewish Community Federations serving the~~
38 ~~Richmond, Northern Virginia, Tidewater and Peninsula regions. The Secretaries of Commerce and Trade, and Education, or~~
39 ~~their designees shall serve as ex officio members of the Board.~~

40 ~~Citizen members shall serve for terms of four years. The Secretaries of Commerce and Trade, and Education, or~~
41 ~~their designees, shall serve terms coincident with their terms of office. Vacancies occurring other than by expiration of term~~
42 ~~shall be filled for the unexpired term. Any member may be reappointed for successive terms.~~

43 ~~The members of the Board shall elect a chairman and vice chairman annually.~~

44 ~~Members shall receive no compensation for their services.~~

45 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 2.2-2424
46 supra.

47 ~~§ 9-352 2.2-2425.~~ Powers and duties of the Board.

48 The Board shall have the power and duty to:

49 1. Undertake studies and gather information and data in order to accomplish its purposes as set forth in ~~§ 9-350 2.2-~~
50 ~~2424~~, and to formulate and present its recommendations to the Governor and the General Assembly.

2. Apply for, accept, and expend gifts, grants, or donations from public, quasi-public or private sources, including any matching funds as may be designated in the appropriation act, to enable it to better carry out its purposes.

1 3. Report annually its findings and recommendations to the Governor. The Board may make interim reports to the
2 Governor as it deems advisable.

3 4. Account annually on its fiscal activities, including any matching funds received or expended by the Board.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 9-353. Staff; cooperation from other state agencies.~~

6 ~~The Office of the Governor shall serve as staff to the Board. All agencies of the Commonwealth shall assist the~~
7 ~~Board upon request.~~

8 **DRAFTING NOTE:** Technical corrections. The first sentence of this section now appears as subsection F in proposed § 2.2-
9 2424 supra. The last sentence in this section now appears in Chapter 21, General provisions, at the beginning of this Part D
10 as § 2.2-2103.

11 Article 12.

12 Virginia Public Broadcasting Board.

13 ~~§ 2-1-563-27-1 2.2-2426.~~ Declaration of public purpose; ~~Board created.~~

14 A. It is hereby found and determined by the General Assembly that there exists in the Commonwealth a need to
15 support and capitalize on the universal access of public broadcasting to: (i) enrich the lives of all citizens of the
16 Commonwealth without regard to their geographic location or economic status by providing them with programs and services
17 that educate, inform and enlighten; (ii) improve and enhance the educational opportunities available to children from pre-
18 kindergarten through secondary schools, adults, home educators, and students and personnel at colleges and universities of
19 the Commonwealth; (iii) provide the citizens of the Commonwealth with comprehensive information on the activities of state
20 government; (iv) maintain and improve the public broadcasting stations' infrastructures for distribution of broadcast and
21 related services; (v) promote economic development through the wider availability of worker-training and job-skills
22 enhancements; (vi) promote tourism through the widespread distribution of programming that recognizes and displays
23 Virginia's historical, educational, recreational and cultural resources; and (vii) improve efficiency in state government through
24 the use of public broadcasting production and distribution systems.

25 ~~B. To achieve these public purposes, there is hereby created the Virginia Public Broadcasting Board under the~~
26 ~~direction and supervision of the Secretary of Administration. The exercise by the Board of the powers conferred by this~~
27 ~~shall be deemed and held to be the performance of essential governmental functions.~~

28 **DRAFTING NOTE:** Technical corrections. Subsection B has been moved to proposed § 2.2-2428 in subsection A.

29 ~~§ 2-1-563-27-2 2.2-2427.~~ Definitions.

30 As used in this article, ~~except in those instances where the~~ unless context requires otherwise a different meaning:

31 "Board" means the Virginia Public Broadcasting Board.

32 "Public broadcasting services" means the acquisition, production, and distribution by public broadcasting stations of
33 noncommercial educational, instructional, informational, or cultural television and radio programs and information ~~which that~~
34 may be transmitted by means of electronic communications, and any related materials and services provided by such
35 stations.

36 "Public broadcasting station" means any noncommercial, educational television or radio station ~~which that~~ (i) is
37 licensed and regulated by the Federal Communications Commission as a noncommercial, educational broadcasting station;
38 (ii) is operated by a public agency or a nonprofit private foundation, corporation, or association; (iii) has offices and studios
39 located in Virginia; and (iv) on or before January 1, 1997, was qualified to receive or was the recipient of a Virginia community
40 service grant or other instructional television service funds, or, after January 1, 1997, was qualified by the Board to receive
41 state funds under standards and criteria established by the Board pursuant to ~~§ 2-1-563-27-4 2.2-2429~~, but shall not include
42 any institution of higher education ~~which that~~ produces or transmits distance education and other credit and noncredit
43 television programs, unless such institution requests qualification as a public broadcasting station and the Board approves its
44 request.

45 **DRAFTING NOTE:** Technical corrections only.

46 ~~§ 2-1-563-27-3 2.2-2428.~~ Virginia Public Broadcasting Board; membership; terms; chairman and vice chairman;
47 duties; compensation.

48 A. To achieve the public purposes set forth in § 2.2-2426, the Virginia Public Broadcasting Board (the "Board") is
49 established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall
50 be under the direction and supervision of the Secretary of Administration. The exercise by the Board of the powers conferred
51 by this article shall be deemed and held to be the performance of essential governmental functions.

1 | B. The Board shall consist of fifteen members. The Governor shall appoint eleven members, one from each
2 | congressional district of the Commonwealth, each of whom shall be confirmed by the affirmative vote of a majority of those
3 | voting in each house of the General Assembly. Three of the appointees shall have expertise in at least one of the areas of
4 | education, tourism, telecommunications, and economic development, and two shall be participating members of different
5 | public broadcasting stations in the Commonwealth. The president of the State Board of Education and the chairmen of the
6 | State Council of Higher Education, the State Board of Community Colleges, and the Board of Trustees of the Virginia
7 | Museum of Fine Arts, or their designees, shall serve as Board members concurrent with their terms in office. No Board
8 | member shall be the chief executive officer or head of any state agency, a member of the General Assembly, or an officer,
9 | director, employee, or member of the board of directors of any public broadcasting station.

10 | ~~B.-All C.~~ After the original appointments, all other appointments shall be for four-year terms; however, the initial
11 | terms of the gubernatorial appointees shall be as follows: three for four-year terms, three for three-year terms, two for two-
12 | year terms, and three for one-year terms. No appointee shall be eligible to serve more than two successive four-year terms;
13 | however, a A member appointed to an initial term may serve one additional four-year term.

14 | ~~G.-D.~~ Vacancies for unexpired terms shall be filled by the Governor in the same manner as the original appointment;
15 | after the expiration of such term, the appointee may serve one additional four-year term. If the General Assembly refuses or
16 | fails to confirm any appointment, such person shall not be eligible for reappointment.

17 | ~~D.-E.~~ The Governor shall designate a Board member to serve as chairman, who shall preside over meetings of the
18 | Board, communicate on behalf of the Board to the outside entities interested in public broadcasting, and perform additional
19 | duties as may be set by resolution of the Board. Board members may elect a vice-chairman from their membership and
20 | appoint a secretary who may or may need not be a member of the Board. The Board shall meet at the call of its chairman. A
21 | majority of the Board members shall constitute a quorum.

22 | ~~E.-F.~~ Board members shall be reimbursed for the reasonable and necessary expenses incurred in performance
23 | discharge of their duties as provided in § 2.2-2823. Such reimbursements and other expenses of the Board shall be paid from
24 | funds which that the Department of Planning and Budget shall annually withhold from appropriations to public broadcasting
25 | stations in an amount sufficient to defray the estimated reasonable and necessary expenses of the Board.

26 | **DRAFTING NOTE:** Technical corrections only.

27 | ~~§ 2-1-563-27-4~~ 2.2-2429. Powers and duties of the Board.

28 | The Board shall have all the powers necessary or convenient to carry out the purposes and provisions of this article,
29 | including, without limitation, power and duty to:

30 | 1. Receive, allocate, and dispense funds appropriated by the General Assembly and any funds received by the
31 | Board from other sources, subject to the approval of the Director of the Department of Planning and Budget;

32 | 2. Develop reasonable and fair formulas for allocating and distributing state funds and other funds of the Board to
33 | Virginia's public broadcasting stations consistent with the intent of such appropriations;

34 | 3. Apply for, accept, and receive grants of federal funds and funds from other public and private sources;

35 | 4. Adopt, administer, and apply standards and criteria by which the Board may permit television and radio stations to
36 | qualify as public broadcasting stations if those stations did not qualify for or receive Virginia community service grants or
37 | other instructional television service funds as of January 1, 1997, but otherwise qualify as such under the definition of a public
38 | broadcasting station in ~~§ 2-1-563-27-2~~ 2.2-2427. To avoid unnecessary duplication of public broadcasting services, the Board
39 | shall consider the: (i) adequacy of existing programming, coverage, and other public broadcasting services in the geographic
40 | area to be served and the extent to which those services would be duplicated by an additional public broadcasting station and
41 | (ii) sufficiency of funds administered by the Board to support existing or proposed public broadcasting stations;

42 | 5. Coordinate such strategic planning by the public broadcasting stations as the Board deems appropriate and
43 | identify and communicate to the Governor and the General Assembly the funding and other requirements of Virginia's public
44 | broadcasting stations; and

45 | 6. Enter into contracts with public broadcasting stations, state agencies and institutions, public schools and private
46 | entities for goods and services.

47 | **DRAFTING NOTE:** Technical corrections only.

48 | ~~§ 2-1-563-27-5~~ 2.2-2430. Funds of the Board.

49 | The Director of the Department of Planning and Budget shall oversee and approve the disbursement of all funds
50 | appropriated to the Board. Upon approval, the funds of the Board shall be ~~dispensed~~ disbursed for the following general
51 | purposes:

52 | 1. ~~Community services.~~ Annual operating grant-funding to public broadcasting stations for developing, acquiring,
53 | producing, and distributing programs and related services which that support local needs of pre-school and adult education;
54 | disseminating information to the citizenry regarding the government and its affairs; promoting tourism and enhancing the

1 Commonwealth's economic development; and supporting other programs ~~which that~~ inform, educate, and entertain the
2 citizenry with noncommercial programming.

3 2. ~~Instructional services.~~ Annual contract-funding to public broadcasting stations to regionally manage and provide
4 programming and related services ~~which that~~ directly support the instructional activities of local schools and home educators.

5 3. ~~Capital improvements.~~ Matching capital-funding to public broadcasting stations for construction and equipment
6 modernization to keep Virginia stations consistent with industry standards.

7 4. ~~Special appropriations.~~ Funding for specific programs and projects to be provided by a public broadcasting station
8 ~~which that~~ may not be included in another funding category.

9 **DRAFTING NOTE:** Technical corrections only. Subdivision catchlines has been deleted as contrary to practice in setting out
10 the Code of Virginia.

11 ~~§ 2.1-563.27:7 2.2-2431.~~ Staff and employees prohibited; ~~cooperation of other agencies.~~

12 The Board shall not ~~be authorized to~~ hire, employ, or contract for its own staff or employees, but may request
13 administrative support from the public broadcasting stations. The Department of Information Technology shall, upon request,
14 provide to the Board and public broadcasting stations the same scope of technical communications and related services
15 ~~which that~~ it provided on or before July 1, 1997, to the Virginia Public Telecommunications Board and to Virginia's public
16 telecommunications entities and public broadcast stations. ~~All departments, commissions, boards, agencies, officers, and~~
17 ~~institutions of the Commonwealth or any political subdivision thereof shall cooperate with the Board in carrying out the~~
18 ~~purposes of this article.~~

19 **DRAFTING NOTE:** Technical corrections. The last sentence in this section now appears in Chapter 21, General provisions,
20 at the beginning of this Part D.

21 ~~§ 2.1-563.27:8 2.2-2432.~~ Forms of accounts and records; audit; annual report.

22 The accounts and records of the Board showing the receipt and disbursement of funds from whatever source
23 derived shall be in ~~such a~~ form as ~~prescribed by the Auditor of Public Accounts prescribe.~~ The Auditor of Public Accounts, or
24 his legally authorized representatives, shall annually examine the accounts and books of the Board.

25 The Board shall submit an annual report to the Governor and General Assembly on or before November 1 of each
26 year. ~~Such The~~ report shall contain the audited annual financial statements of the Board for the year ending the preceding
27 June 30. The annual report shall be distributed in accordance with the provisions of ~~§ 2.1-467 2.2-1127.~~

28 **DRAFTING NOTE:** Technical corrections only.

29 ~~§ 2.1-563.27:6 2.2-2433.~~ Exemption from Virginia Public Procurement Act.

30 State agencies, institutions, and political subdivisions of the Commonwealth may enter into contracts with public
31 broadcasting stations for program production, broadcasting, transmission, distribution, and related communications services
32 without competitive sealed bidding or competitive negotiation as required by the Virginia Public Procurement Act (~~§ 11-35~~
33 ~~2.2-4300~~ et seq.).

34 **DRAFTING NOTE:** Technical corrections only.

35 Article 13.

36 Virginia Public Buildings Board.

37 ~~§ 2.1-486 2.2-2434.~~ ~~Public Buildings Commission continued as~~ Virginia Public Buildings Board; purpose;
38 membership; terms; compensation.

39 ~~The Virginia Public Buildings Commission is continued and shall hereafter be known as the Virginia Public Buildings~~
40 ~~Board.~~ A. The Virginia Public Buildings Board (the "Board") is established as an advisory board, within the meaning of § 2.2-
41 2103, in the executive branch of state government. The purpose of the Council shall be to assist and advise the Governor
42 and the Department of General Services in the preparation and maintenance of a long-range site plan at the seat of
43 government, and in the determination of need for the acquisition of land, buildings and improvements, through purchases or
44 construction.

45 B. The Board shall consist of nine members, to be appointed as follows: three of whom members shall be
46 appointed by the Speaker of the House of Delegates from the membership of the House of Delegates, two of whom members
47 shall be appointed by the Committee on Privileges and Elections of the Senate from the membership of the Senate; such
48 members shall be appointed for a term to expire on the date of the convening of the first regular session of the General
49 Assembly in even-numbered years following their appointments. The Governor shall appoint three members of the Board
50 appointed by the Governor from the public at large, who shall serve for terms coincident with his own. The; and the Director of
51 the Department of General Services who shall be serve as an ex officio member of the Board.

2 C. Legislative members shall serve terms coincident with their terms of office. The citizen members shall serve for
3 terms coincident with that of the Governor. The Director of the Department of General Services shall serve a term coincident
4 with his term of office. Vacancies for unexpired terms shall be filled in the same manner as the original appointments.

5 D. The members of the Board shall elect a chairman and vice-chairman annually. A majority of the members of the
6 Board shall constitute a quorum.

7 E. The members of the Board shall receive their actual expenses incurred in the discharge of their duties, to be paid
8 from the funds transferred from other state departments, agencies or institutions under § 2.2-1139, or from any funds that
9 may be appropriated or made available for such purposes.

10 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
11 A is § 2.1-487, subsections B and C are from § 2.1-486, and subsection E is from § 2.1-488. Subsection D was added to
12 clarify the election of a chairman and vice-chairman and the quorum requirements for the Board.

13 ~~§ 2.1-487. Board to assist and advise Governor and Department.~~

14 ~~The Board shall assist and advise the Governor and the Department of General Services in the preparation and~~
15 ~~maintenance of a long-range site plan at the cost of government, and in the determination of need for the acquisition of land,~~
16 ~~buildings and improvements, through purchases or construction.~~

17 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection A in proposed § 2.2-2434 supra.

18 ~~§ 2.1-488. Expenses of members of Board.~~

19 ~~The members of the Board shall receive their actual expenses incurred in the performance of the duties imposed by~~
20 ~~this article to be paid from the funds transferred from other state departments, agencies or institutions under § 2.1-483, or~~
21 ~~from any funds which may be appropriated or made available for such purposes.~~

22 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 2.2-2434 supra.

23 Article 14.

24 Virginia Veterans Care Center Board of Trustees.

25 ~~§ 2.1-744.1 2.2-2435. Virginia Veterans Care Center Board of Trustees; purpose; appointments membership; terms;~~
26 ~~quorum.~~

27 A. ~~The Virginia Veterans Care Center Board of Trustees (the "Board") is hereby established and shall be referred to~~
28 ~~in this chapter as the Board. The Board is as a supervisory board, within the meaning of § 0-6-25 and 2.1-2100, in the~~
29 ~~executive branch of state government. The Board shall operate as an agency under the supervision and direction of the~~
30 ~~Secretary of Administration. The Board shall govern and oversee the administration of the Virginia Veterans Care Center,~~
31 ~~located in the City of Roanoke, adjacent to the United States Veterans Administration hospital. The purpose of the Virginia~~
32 ~~Veterans Care Center is to provide adult home and nursing home care for Virginia residents who are veterans of the armed~~
33 ~~forces of the United States or those who were Virginia residents at the time of their entry in the armed forces.~~

34 B. ~~The Board shall be composed consist of ten members, all residents of the Commonwealth, to be appointed by the~~
35 ~~Governor. Three members shall be chosen from a list of nominees submitted by the Speaker of the House of Delegates. Two~~
36 ~~members shall be chosen from a list of nominees submitted by the Senate Committee on Privileges and Elections. In making~~
37 ~~appointments, the Governor shall select members who possess the qualifications and experience necessary to control the~~
38 ~~operations of the Virginia Veterans Care Center, so as to provide financially sound, high quality care to its residents.~~

39 C. ~~Members of the Board shall be appointed for four-year terms. Any appointment to fill a vacancy shall be for the~~
40 ~~unexpired term. No person shall be eligible to serve for more than two successive four-year terms. However, any person~~
41 ~~appointed to fill a vacancy may be eligible for two successive full terms after the term of the vacancy for which he was~~
42 ~~appointed has expired. Members of the Board may be removed by the Governor at his pleasure.~~

43 D. ~~The Board shall elect from its members a chairman and other such officers as its bylaws may provide. The Board~~
44 ~~shall meet at such times as it deems appropriate and on call of the chairman. A majority of the members of the Board shall~~
45 ~~constitute a quorum.~~

46 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
47 A, B, and C are § 2.1-744.1, and subsection D is from § 2.1-744.2. The last sentence in subsection C has been deleted as
48 contrary to general law (§ 2.1-43), which provides the method for the removal of members of boards, councils, and
49 commissions, etc.

50 ~~§ 2.1-744.2. Board bylaws; officers; meetings; executive committee.~~

51 ~~The Board shall adopt bylaws governing its organization and procedures and may, from time to time, amend the~~
52 ~~same. The Board shall elect from its members a chairman and other such officers as its bylaws may provide. The Board~~
53 ~~shall meet at such times as it deems appropriate and on call of the chairman when, in his opinion, meetings are necessary. A~~

1 majority of the current membership of the Board shall constitute a quorum for all purposes. The Board also shall appo
2 executive committee, composed of not less than five members, which shall exercise the powers vested in and perfor
3 duties imposed upon the Board by this chapter to the extent permitted by the Board in its bylaws.

4 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 2.2-2435 supra, and as
5 subdivisions 8 and 9 in proposed § 2.2-2436 infra.

6 ~~§ 2.1-744.3~~ 2.2-2436. General powers-Powers and duties of Board.

7 The Board shall have the power and duty to:

- 8 1. Manage, control, maintain, and operate the Virginia Veterans' Care Center and all its assets;
- 9 2. Set fees for residence and care at the Virginia Veterans' Care Center;
- 10 3. Adopt rules and regulations for the use of, residence in, and care at the Center;
- 11 4. Enter into contracts with one or more entities to operate the Center on behalf of the Board;
- 12 5. Employ and discharge from employment an executive director and such other persons as may be necessary to
13 assist the Board in carrying out its powers and duties;
- 14 6. Determine which programs and activities will be offered at the Center; and
- 15 7. Determine eligibility criteria for residence or care in the Center;
- 16 8. Adopt bylaws governing its organization and procedures and may amend the same; and
- 17 9. Appoint an executive committee, composed of not less than five members, which shall exercise the powers and
18 duties imposed upon the Board by this article to the extent permitted by the Board in its bylaws.

19 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections:
20 subdivisions 1 through 7 are from § 2.1-744.3 and subdivisions 8 and 9 are from § 2.1-744.2.

21 ~~§ 2.1-744.4~~ 2.2-2437. Gifts, grants, bequests, etc.; property.

22 A. The Board ~~is authorized to~~ may seek, promote, and stimulate gifts, grants, bequests, and devises for the
23 endowment, maintenance, and improvement of the Center and its operation. With the approval of the Governor, the Board
24 may apply for, expend, and administer such grants, gifts, bequests, or devises from any source as may become available in
25 connection with its duties under this ~~chapter~~ article, and comply with ~~such~~ the conditions and requirements ~~as~~ are
26 imposed in connection therewith.

27 B. The Board ~~is authorized to~~ may sell, dispose of, liquidate, and change the form of any funds, securities, or other
28 property, real or personal, provided that such action is consistent with the terms of any gift, grant, bequest, or devise by which
29 the property may have been obtained, and to take all actions necessary with respect to any property held by the Board.
30 However, the land and improvements ~~which~~ that constitute the Virginia Veterans Care Center may be leased only to a
31 contractor who is to operate the Virginia Veterans Care Center. Such land and improvements may be otherwise disposed of
32 or encumbered only with the prior approval of the Governor and in accordance with the general provisions for the
33 management of real property contained in §§ ~~2.1-504~~ 2.2-1147 through ~~2.1-542~~ 2.2-1156.

34 **DRAFTING NOTE:** Technical corrections only.

35 Article 15.

36 Virginia Veterans Cemetery Board.

37 ~~§ 2.1-730.4~~ 2.2-2438. Virginia Veterans Cemetery Board-created; purpose; membership; terms; compensation; staff.

38 A. The Virginia Veterans Cemetery Board (the Board) is hereby created and shall be an advisory board, within the
39 meaning of §-9-6-25 2.2-2100, in the executive branch of state government. The Board shall purpose of the Board shall be to
40 advise and make recommendations to the Department of Veterans' Affairs (the Department) regarding the control and
41 operation of such veterans' cemeteries as may be established in the Commonwealth pursuant to §-2.1-730 2.2-1902.

42 B. The Board shall consist of ten members as follows: three members from the House of Delegates, to be appointed
43 by the Speaker of the House; two members from the Senate, to be appointed by the Senate Committee on Privileges and
44 Elections; and five members from the Commonwealth at large, each of whom shall be a member in good standing of a
45 veteran service organization recognized by the U.S. Department of Veteran Affairs, to be appointed by the Governor.

46 C. All appointments to the Board shall be for terms of four years. Vacancies occurring other than by expiration of
47 term shall be filled for the unexpired term. Legislative members shall serve terms coincident with the terms of office.
48 Vacancies shall be filled in the manner of the original appointments.

49 Any member may be reappointed for successive terms.

50 D. The members of the Board shall elect a chairman and a vice-chairman annually. The Board shall meet at such
51 times as it deems appropriate or on call of the chairman. A majority of the members of the Board shall constitute a quor

1 E. Legislative members of the Board shall receive such compensation as is set forth in § 30-19.12 and all members
2 shall be reimbursed for the reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-
3 2825.

4 F. The Department shall serve as staff to the Board.

5 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
6 A is § 2.1-739.1, subsections B through E are from § 2.1-739.2, and subsection F is from § 2.1-739.4.

7 ~~§ 2.1-739.2. Membership; terms; vacancies; chairman and vice chairman; compensation.~~

8 ~~A. The Board shall consist of ten members as follows: three members from the House of Delegates, to be appointed~~
9 ~~by the Speaker of the House; two members from the Senate, to be appointed by the Senate Committee on Privileges and~~
10 ~~Elections; and five members from the Commonwealth at large, each of whom shall be a member in good standing of a~~
11 ~~veteran service organization recognized by the U.S. Department of Veteran Affairs, to be appointed by the Governor.~~

12 ~~B. All appointments to the Board shall be for terms of four years. Vacancies occurring other than by expiration of~~
13 ~~term shall be filled for the unexpired term. Whenever any legislative member fails to retain his membership in the house from~~
14 ~~which he was appointed, he shall relinquish his membership on the Board, and the appointing authority who appointed such~~
15 ~~member shall make an appointment from his respective house to complete the term. Any member may be reappointed for~~
16 ~~successive terms.~~

17 ~~C. The members of the Board shall elect a chairman and a vice chairman annually. The Board shall meet at such~~
18 ~~times as it deems appropriate and on call of the chairman when, in his opinion, meetings are expedient or necessary. A~~
19 ~~majority of the membership of the Board shall constitute a quorum for all purposes.~~

20 ~~D. Legislative members of the Board shall receive such compensation as is set forth in § 14.1-18, and all members~~
21 ~~shall be reimbursed for the actual expenses incurred by them in the performance of their Board duties.~~

22 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 2.2-2438
23 supra.

24 ~~§ 2.1-739.3 2.2-2439. Powers and duties of the Board.~~

25 ~~With regard to such the veterans' cemeteries as may be established in the Commonwealth pursuant to § 2.1-739~~
26 ~~2.2-1902, the Board shall make recommendations and provide advice to the Department of Veterans' Affairs regarding: (i)~~
27 ~~care, maintenance, and upkeep; (ii) fees and costs; and (iii) acceptance of gifts and grants and expenditure of funds.~~

28 **DRAFTING NOTE:** Technical corrections only.

29 ~~§ 2.1-739.4. Staff; cooperation from other state agencies.~~

30 ~~The Department shall serve as staff to the Board. All agencies of the Commonwealth shall assist the Board upon~~
31 ~~request.~~

32 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection F in proposed § 2.2-2438 supra. The last
33 sentence in this section now appears in Chapter 21, General provisions, at the beginning of this Part D.

34 Article 16.

35 Virginia Advanced Shipbuilding And Carrier Integration Board.

36 § 2.2-2440. Definitions.

37 As used in this article:

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

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

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

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

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

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

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

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

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

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

16 **DRAFTING NOTE:** Technical corrections only. This proposed Article 16 is existing Chapter 49 (§ 9-371 et seq.) of Title 9
17 and was relocated here as an executive branch board. This proposed section is existing § 9-373.

18 § 2.2-2441. Legislative findings.

19 The General Assembly finds that the encouragement of major investments in shipbuilding facilities in Virginia, the
20 preservation of thousands of existing jobs, and the creation of new jobs in Virginia's shipbuilding industry are in the best
21 interest of the Commonwealth and its citizens. The General Assembly has determined that the establishment of a center in
22 Virginia to undertake (i) testing and integration development projects, (ii) research, and (iii) training of workers in the
23 shipbuilding industry, will enhance and promote the quality and competitiveness of Virginia's shipbuilding industry, is in the
24 public interest, and will promote the general welfare of the citizens of Virginia. The General Assembly finds that several states
25 have provided financial and other incentives to preserve, expand and promote their shipbuilding industries. The General
26 Assembly further finds that the enactment of incentives for the construction and operation of an advanced shipbuilding and
27 carrier integration center in Virginia is necessary to maintain Virginia's position as a leader in the shipbuilding industry and
28 related defense industries and will thereby contribute to the strength and expansion of Virginia's economy.

29 **DRAFTING NOTE:** Technical corrections only. This proposed section is § 9-372.

30 § 2.2-2442. The Virginia Advanced Shipbuilding and Carrier Integration Center Board; membership.

31 The Virginia Advanced Shipbuilding and Carrier Integration Center Board (the "Board") is established in the
32 executive branch of state government and shall consist of and perform the same duties as the members of the Board of
33 Directors described in § 2.2-2445.

34 **DRAFTING NOTE:** Technical corrections only. This proposed section is existing § 9-371.

35 § 2.2-2443. Investment grants.

36 A. A local industrial development authority shall be entitled to the investment grant provided for in this section for use
37 by a Qualified Shipbuilder to build the Advanced Shipbuilding and Carrier Integration Center if the Secretary determines that:

38 1. The United States government has either (i) made a decision that the United States Navy's next aircraft carrier will
39 be nuclear powered or (ii) awarded a prime contract to a Qualified Shipbuilder to design or design and construct the United
40 States Navy's next aircraft carrier; and

41 2. A Qualified Shipbuilder has agreed to build the Advanced Shipbuilding and Carrier Integration Center for the local
42 industrial development authority.

43 B. The investment grant provided for by this section shall be subject to the following limitations:

44 1. The grant shall be awarded after July 1, 1998, and before July 1, 2001.

45 2. The total amounts granted under this section shall not exceed:

46 a. \$8 million from July 1, 1998, through June 30, 1999;

47 b. \$30 million from July 1, 1999, through June 30, 2000; and

48 c. \$20 million from July 1, 2000, through June 30, 2001.

49 Investment grants provided for by this section shall not exceed \$58 million in the aggregate.

50 3. The structure of the investment grant provided for by this section shall be negotiated and set forth in a
51 Memorandum of Agreement. After the Secretary makes the determination required by subsection A of this section and has
52 entered into a Memorandum of Agreement with a Qualified Shipbuilder, the investment grant shall be made to the local
53 industrial development authority where the Qualified Shipbuilder is located. The Memorandum of Agreement shall set forth,

inter alia, the performance standards for transfer of the Advanced Shipbuilding and Carrier Integration Center to the Qualified Shipbuilder. Title to the Advanced Shipbuilding and Carrier Integration Center shall be held by the local industrial development authority and shall be transferred to the Qualified Shipbuilder if it meets the performance standards set forth in the Memorandum of Agreement. A copy of such agreement shall be provided prior to its execution to the chairmen of the House Appropriations Committee and the Senate Finance Committee for review.

DRAFTING NOTE: Technical corrections only. This proposed section is existing § 9-374.

§ 2.2-2444. Operation grants.

A. The operations grant provided for by this section shall be appropriated to the Virginia Economic Development Partnership for use by the Advanced Shipbuilding and Carrier Integration Center if the Secretary determines that:

1. The investment grant provided for in § 2.2-2443 has been awarded;
2. The United States government has awarded a prime contract to a Qualified Shipbuilder to design or to design and construct the United States Navy's next aircraft carrier;
3. The Qualified Shipbuilder has undertaken construction and has agreed to operate the Advanced Shipbuilding and Carrier Integration Center consistent with the Memorandum of Agreement with the Secretary; and
4. To the extent practicable and consistent with the security requirements of the United States government and the protection of the Qualified Shipbuilder's proprietary information, the Memorandum of Agreement between the Qualified Shipbuilder and the Secretary provides for the establishment of procedures to:

a. Include members of the faculties and staffs of those public institutions of higher education in Virginia that provide engineering and other courses of study relevant to the shipbuilding industry, in the activities of the Advanced Shipbuilding and Carrier Integration Center, including research and development, education and training;

b. Allow other members of the shipbuilding industry access to, and participation in, the activities of the Advanced Shipbuilding and Carrier Integration Center, including its ship systems integration activities; and

c. Ensure that the training, retraining and education services provided by the Advanced Shipbuilding and Carrier Integration Center are not limited to employees of the Qualified Shipbuilder, but also are available to other members of the shipbuilding industry.

B. The operations grant authorized by this section shall be subject to the following limitations:

1. The operations grant shall be awarded after July 1, 1998, and before July 1, 2004; and
2. The total operations grants awarded shall not exceed \$20 million during any fiscal year and shall not exceed \$40 million in the aggregate.
3. All such grants received shall be used to establish or operate activities of the Advanced Shipbuilding and Carrier Integration Center.

DRAFTING NOTE: Technical corrections only. This proposed section is existing § 9-375.

§ 2.2-2445. Administration of grant program; exemption from Freedom of Information Act.

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

DRAFTING NOTE: Technical corrections only. This proposed section is existing § 9-377.

§ 2.2-2446. Memorandum of agreement.

The memorandum of agreement shall specify the following:

1. Circumstances for transfer of title to the Advanced Shipbuilding and Carrier Integration Center to the Qualified Shipbuilder upon completion of construction and fulfillment of performance standards.
2. Operation of the Carrier Integration Center prior to transfer of title to the Qualified Shipbuilder and until all grants hereunder have been expended.

1 3. The means by which participation of the shipbuilding industry in the activities of the Advanced Shipbuilding and
2 Carrier Integration Center shall be accomplished.

3 4. The means by which participation of Virginia universities in the activities of the Advanced Shipbuilding and Carrier
4 Integration Center shall be accomplished.

5 5. Disbursement and use of the operations grant monies provided in § 2.2-2444.

6 **DRAFTING NOTE:** Technical corrections only. This proposed section is existing § 9-378.

7 § 2.2-2447. Annual statement.

8 A Qualified Shipbuilder building and operating the Advanced Shipbuilding and Carrier Integration Center shall submit
9 annually to the Secretary a statement, approved by an independent certified public accountant licensed by the
10 Commonwealth, confirming that the Qualified Shipbuilder: (i) has made a Qualified investment in the amount required by this
11 act and (ii) employs more than 10,000 persons in Virginia. The statement shall be in the form specified by the Secretary and
12 shall be subject to audit and verification by the Secretary.

13 **DRAFTING NOTE:** Technical corrections only. This proposed section is existing § 9-376.

14 CHAPTER 25.

15 COMMISSIONS.

16 Commission for the Preservation of the Capitol.

17 § 9-301. Commission created; appointment and terms of members; vacancies.

18 There is hereby created the Commission for the Preservation of the Capitol, hereinafter referred to as the
19 "Commission." The Commission shall be composed of twenty five members as follows:

20 1. The Speaker of the House of Delegates;

21 2. The President Pro Tempore of the Senate;

22 3. The majority and minority leaders of the House of Delegates and the Senate;

23 4. The Clerks of the House of Delegates and the Senate;

24 5. The Director of the Department of Historic Resources;

25 6. One member of the Art and Architectural Review Board to be appointed by the Governor;

26 7. One member of the Virginia Public Building Authority to be appointed by the Governor;

27 8. Two members to be appointed by the Speaker of the House of Delegates;

28 9. Two members to be appointed by the Senate Privileges and Elections Committee; and

29 10. The remaining ten members to be appointed by the Governor.

30 The at-large members of the Commission appointed pursuant to subdivisions 8, 9, and 10 above shall serve for
31 terms of four years and may be reappointed for consecutive terms. Any member may be removed by the appointing authority
32 for cause. Vacancies shall be filled in the same manner as the original appointments. The legislative members shall receive
33 compensation as provided in § 14.1-18 and reimbursement for their necessary expenses. Such compensation and
34 reimbursement shall be paid from funds appropriated to the General Assembly for such purposes. Other members shall
35 receive no compensation for their services but shall be reimbursed from funds appropriated to the Department of General
36 Services for such purposes for travel and other necessary expenses in the performance of their duties.

37 **DRAFTING NOTE:** This chapter on the Commission for the Preservation of the Capitol has been deleted because of the
38 creation of the Capitol Square Preservation Council (c. 976, 1999 Acts of Assembly) which Council took over the
39 responsibilities of the Commission. Additionally, the Commission has not met in over four years.

40 § 9-302. Duties of Commission.

41 The Commission shall have the following responsibilities:

42 1. Promote a greater understanding and awareness of the history and significance of the Capitol;

43 2. Secure expert advice on the restoration, renovation, and modernization of the Capitol;

44 3. Recommend ways to involve more private individuals, groups, and businesses in the preservation of the Capitol;

45 and

46 4. Explore and suggest creative fiscal and financial methods to preserve the Capitol.

47 **DRAFTING NOTE:** This article on the Commission for the Preservation of the Capitol has been deleted since the creation of
48 the Capitol Square Preservation Council (c. 976, 1999 Acts of Assembly) which Council took over the responsibilities of the
49 Commission.

1 E. Members of the Commission shall be reimbursed for their reasonable and necessary expenses incurred in the
2 discharge of their duties as provided in § 2.2-2825.

3 F. For the purposes of this article, "Southside Virginia" shall include the Counties of Amelia, Appomattox, Brunswick,
4 Buckingham, Campbell, Charlotte, Cumberland, Dinwiddie, Franklin, Greensville, Halifax, Henry, Lunenburg, Mecklenburg,
5 Nottoway, Patrick, Pittsylvania, Prince Edward, Southampton and Sussex and the Cities of Danville, Emporia, Franklin,
6 Martinsville, and South Boston.

7 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
8 A and F are from § 9-145.16, subsections B through E are from § 9-145.17. The last sentence in subsection D was added to
9 clarify the quorum requirements for the Commission. The stricken language, relating to the powers and duties of the
10 Commission, now appears in proposed § 2.2-2501, Duties of the Commission, infra.

11 ~~§ 9-145.17. Membership; terms; compensation; chairman and vice chairman; meetings.~~

12 ~~A. The Commission shall be composed of twenty-one members to be appointed by the Governor as follows: nine~~
13 ~~members representing business and industry; six members representing the education community, including one~~
14 ~~representative of a public four year college or university, one representative of a four year private college or university, one~~
15 ~~community college president or dean, one school superintendent, one public school teacher, and one school board member;~~
16 ~~four local elected officials; and two citizen members. Commission members shall be chosen from among residents of the~~
17 ~~Southside region of the Commonwealth.~~

18 ~~B. Of the members to be appointed in 1991, seven shall be appointed for two-year terms, seven shall be appointed~~
19 ~~for three-year terms, and seven shall be appointed for four-year terms. Thereafter, all appointments shall be for terms of four~~
20 ~~years, except that appointments to fill vacancies shall be for the unexpired terms. However, any member appointed to a term~~
21 ~~of three years or less or appointed to fill a vacancy shall be eligible for two additional four-year terms.~~

22 ~~C. Members of the Commission shall be reimbursed for their actual expenses incurred in the performance of their~~
23 ~~duties in the work of the Commission.~~

24 ~~D. The Commission shall elect a chairman and a vice chairman from among its members. The Commission shall~~
25 ~~meet at least four times a year and at such dates and times as they determine.~~

26 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 2.2-2500
27 supra.

28 § 2.2-2501. Duties of the Commission; application and acceptance of grants.

29 A. The Commission shall have the following duties to:

30 1. Provide general leadership in the region for education and business partnership programs and excellence in
31 education;

32 2. Encourage and expand business participation and involvement in public education and to foster partnerships
33 between the public and private sectors to enhance public education in Southside Virginia;

34 3. Collect, generate, and disseminate ideas and information regarding educational innovations and effective
35 instructional practices pertinent to Southside Virginia;

36 4. Coordinate with business and industry throughout the region to ascertain those skills, education, and training that
37 businesses seek from entry level workers;

38 5. Serve as a resource and referral center for area school divisions by maintaining and disseminating information on
39 existing educational programs and resources;

40 6. Develop, in coordination with the Department of Education and local school boards, specific goals for public
41 education in Southside Virginia; and

42 7. Promote the coordination of elementary, secondary, and higher education and adult education and worker
43 training;

44 B. The Commission may apply for, accept, and expend gifts, grants, or donations from public or private sources to
45 enable it to carry out its objectives.

46 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
47 A is subdivisions 1 through 7 of § 9-145.16 and subsection B is from § 9-145.19.

48 ~~§ 9-145.18 2.2-2502. Executive director; staff support; location.~~

49 ~~The Commission may appoint an executive director, who shall be authorized to may employ such staff as necessary~~
50 ~~to enable the Commission to perform its duties as set forth in this chapter article. The Commission is authorized to may~~
51 ~~determine the duties of such staff and to fix salaries and compensation from such funds as may be appropriated or received.~~
52 ~~Regional resource personnel from the Department of Education shall also provide staff support to the Commission. The~~

1 mmission's offices shall be housed at Longwood College. The Commission shall be assisted by the University of Virginia
2 Center for Public Service.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 9-145.10. Application for and acceptance of gifts and grants.~~

5 ~~The Commission is authorized to apply for, accept, and expend gifts, grants, or donations from public or private~~
6 ~~sources to enable it to carry out its objectives.~~

7 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2501 supra.

8 ~~§ 9-145.20. Cooperation of other agencies.~~

9 ~~All agencies of the Commonwealth shall cooperate with the Commission and, upon request, assist the Commission~~
10 ~~in the performance of its duties and responsibilities.~~

11 **DRAFTING NOTE:** Technical corrections. This section was consolidated with other like sections and now appears in Chapter
12 21, General provisions, at the beginning of this Part D as § 2.2-2103.

13 Article 2.

14 Special Advisory Commission on Mandated Health Insurance Benefits.

15 ~~§ 9-297 2.2-2503. Special Advisory Commission established on Mandated Health Insurance Benefits; appointment~~
16 ~~of members; membership; terms; eligibility; meetings; compensation; staff.~~

17 ~~A. The Special Advisory Commission on Mandated Health Insurance Benefits is hereby established to The Special~~
18 ~~Advisory Commission on Mandated Health Insurance Benefits (the "Commission") is established as an advisory commission~~
19 ~~within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Commission shall be to~~
20 ~~advise the Governor and the General Assembly on the social and financial impact of current and proposed mandated benefits~~
21 ~~and providers, in the manner set forth in this chapter/article.~~

22 ~~B. The Advisory Commission shall be comprised of fourteen members and two ex officio members. Ten consist of~~
23 ~~sixteen members to be appointed as follows: ten members shall be appointed by the Governor as follows: including one~~
24 ~~physician, one chief executive officer of a general acute care hospital, one allied health professional, one representative of~~
25 ~~small business, one representative of a major industry, one expert in the field of medical ethics, two representatives of the~~
26 ~~accident and health insurance industry, and two citizen members. The Senate Committee on Privileges and Elections shall~~
27 ~~appoint one member from the Senate Committee on Education and Health and one member from the Senate Committee on~~
28 ~~Commerce and Labor, and the Speaker of the House of Delegates shall appoint one member from the House Committee on~~
29 ~~Health, Welfare and Institutions and one member from the House Committee on Corporations, Insurance and Banking. The~~
30 ~~State Commissioner of Health and the State Commissioner of Insurance shall serve as ex officio, nonvoting members.~~

31 ~~C. All members shall be appointed for terms of four years each, except that appointments to fill vacancies shall be~~
32 ~~made for the unexpired terms.~~

33 ~~B. No person shall be eligible to serve for or during more than two successive four-year terms; but after the~~
34 ~~expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy,~~
35 ~~two additional four-year terms may be served by such a member if so appointed.~~

36 ~~C. D. The Advisory Commission shall meet regularly and at the request of the Governor. The first meeting of the~~
37 ~~Advisory Commission shall be held no later than July 31, 1990, at which time the Advisory Commission shall select a~~
38 ~~chairman and a vice chairman, as determined by the membership. A majority of the members of the Commission shall~~
39 ~~constitute a quorum.~~

40 ~~E. Members of the Commission shall receive reimbursement for all reasonable and necessary expenses incurred in~~
41 ~~the discharge of their duties as provided in § 2.2-2825.~~

42 ~~F. The Bureau of Insurance, the State Health Department, and such other state agencies as may be considered~~
43 ~~appropriate by the Commission shall provide staff assistance to the Commission.~~

44 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
45 A through D are from § 9-297, subsection E is from subsection B of § 9-298, and subsection F is from § 9-300. The last
46 sentence in subsection D was added to clarify the quorum requirements for the Commission.

47 ~~§ 9-298 2.2-2504. Duties of the Special Advisory Commission; reimbursement.~~

48 ~~A. The Special Advisory Commission shall:~~

49 1. Develop and maintain, with the Bureau of Insurance, a system and program of data collection to assess the
50 impact of mandated benefits and providers, including costs to employers and insurers, impact of treatment, cost savings in
51 the health care system, number of providers and other data as may be appropriate.

1 2. Advise and assist the Bureau of Insurance on matters relating to mandated insurance benefits and
2 regulations.

3 3. Prescribe the format, content, and timing of information to be submitted to the ~~Special Advisory Commission~~ it in
4 its assessment of proposed and existing mandated benefits and providers. Such format, content, and timing requirements
5 shall be binding upon all parties submitting information to the ~~Special Advisory Commission~~ in its assessment of proposed
6 and existing mandated benefits and providers.

7 4. Provide assessments of proposed and existing mandated benefits and providers and other studies of mandated
8 benefits and provider issues as requested by the General Assembly.

9 5. Provide additional information and recommendations, relating to any system of mandated health insurance
10 benefits and providers, to the Governor and the General Assembly upon request.

11 6. Report annually on its activities to the joint standing committees of the General Assembly having jurisdiction over
12 insurance by December 1 of each year.

13 7. Review and evaluate as necessary the benefits and other provisions of the essential and standard health benefits
14 plans established pursuant to § 38.2-3431, and submit to the State Corporation Commission, for adoption in the State
15 Corporation Commission's applicable regulations pursuant to § 38.2-3431, any modifications needed to maintain or enhance
16 the affordability and marketability of the plans.

17 ~~B. Members of the Special Advisory Commission shall receive reimbursement for expenses incurred in the~~
18 ~~performance of their duties pursuant to Article 1 (§ 14.1-1 et seq.) of Chapter 1 of Title 14.1.~~

19 **DRAFTING NOTE:** Technical corrections. Subsection B was moved to proposed § 2.2-2503 supra as subsection E.

20 ~~§ 2-299~~ 2.2-2505. Assessment of proposed mandated benefits and providers.

21 A. Except as may be otherwise provided in this section, whenever a legislative measure containing a mandated
22 health insurance benefit or provider is proposed, the standing committee of the General Assembly having jurisdiction over the
23 proposal shall request that the ~~Special Advisory Commission~~ prepare and forward to the Governor and the General Assembly
24 a study that assesses the social and financial impact and the medical efficacy of the proposed mandate. The ~~Special~~
25 ~~Advisory Commission~~ shall be given a period of twenty-four months to complete and submit its assessment.

26 B. Whenever a legislative measure, as described in subsection A, is identical or substantially similar to a legislative
27 measure previously reviewed by the Special Advisory Commission within the three-year period immediately preceding
28 then current session of the General Assembly, the standing committee may, ~~in its discretion,~~ request a ~~Special~~
29 Commission study as provided in subsection A.

30 C. The standing committees of the General Assembly having jurisdiction over health insurance matters shall request
31 that the ~~Special Advisory Commission on Mandated Benefits~~ assess the social and financial impact and the medical efficacy
32 of existing mandated benefits and providers. The committees shall submit a schedule of evaluations to the ~~Special Advisory~~
33 Commission ~~by February 1, 1991,~~ setting forth the dates by which particular mandates shall be evaluated by the ~~Special~~
34 ~~Advisory Commission~~.

35 **DRAFTING NOTE:** Technical corrections only.

36 ~~§ 2-300~~ ~~Special Advisory Commission staff assistance.~~

37 ~~The Bureau of Insurance, the State Health Department, and such other state agencies as may be considered~~
38 ~~appropriate by the Special Advisory Commission shall provide staff assistance to the Special Advisory Commission.~~

39 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection F in proposed § 2.2-2503 supra.

40 Article 3.

41 Virginia Advisory Commission on Intergovernmental Relations.

42 ~~§ 2-1335-1~~ 2.2-2506. ~~Local Government Advisory Council continued as~~ Virginia Advisory Commission on
43 Intergovernmental Relations; membership; terms; compensation; expenses; powers; reports to Governor and General
44 Assembly.

45 ~~The Local Government Advisory Council is continued and shall hereafter be known as the Virginia Advisory~~
46 ~~Commission on Intergovernmental Relations.~~ A. The Virginia Advisory Commission on Intergovernmental Relations (the
47 "Commission") is established as an advisory commission within the meaning of § 2.2-2100, in the executive branch of state
48 government.

49 B. The Commission shall consist of twenty members. Three to be appointed as follows: three members shall be
50 appointed from the House of Delegates by the Speaker of the House of Delegates and; three members shall be appointed by
51 the Senate Privileges and Elections Committee. The Governor shall make the following appointments:; and three members
52 from the executive branch of state government; four elected local government officials upon the recommendation of the
53 Virginia Association of Counties and four elected municipal officers upon the recommendation of the Virginia A al

1 League; one representative of a planning district commission upon the recommendation of the Virginia Association of
2 Planning Commissions; and two citizen members who have no current government affiliation, all of whom shall be appointed
3 by the Governor.

4 C. Members from the executive branch shall serve at the pleasure of the Governor. All other members shall serve for
5 a four-year term commencing January 1, 1990, except for the additional citizen member appointed subsequent to January 1,
6 1990, who shall serve for that portion of a four-year term remaining after January 1, 1990. No member shall serve more than
7 eight consecutive years. Vacancies shall be filled by the appointing authority to fill the unexpired term.

8 D. A chairman shall be elected annually from the membership. The Commission shall meet at least four times a
9 year. Local government members shall cease to be a member if not a locally elected official. No member shall serve more
10 than eight consecutive years.

11 E. The members of the Commission shall be paid their necessary expenses incident to their work ~~upon~~ on the
12 Virginia Advisory Commission on Intergovernmental Relations as provided in § 2.2-2823).

13 F. The Commission shall ~~make such reports as to report~~ its findings as it deems proper and shall submit a biennial
14 report to the Governor and the General Assembly on or before October 1 of each even-numbered year. The biennial report
15 shall be distributed in accordance with the provisions of § ~~2.1-467~~ 2.2-1127.

16 **DRAFTING NOTE:** Technical corrections only.

17 § ~~2.1-335.2~~ 2.2-2507. Duties of Commission.

18 A. The Commission shall ~~not have~~ have the following duties:

19 1. Act as a forum for identifying areas of mutual concern to local and state officials, discussing and offering
20 recommendations on issues affecting local governments and, in particular, those issues affecting the relationship of the
21 Commonwealth with its various local governments.

22 The Commission shall, in addition to the above mentioned duties:

23 ~~1-2.~~ 2. Advise on state and federal programs and policies;

24 ~~2-3.~~ 3. Identify, discuss, and bring into focus statewide opportunities and issues regarding local government;

25 ~~3-4.~~ 4. Arrange conferences between officials of local governments and state agencies, when appropriate;

26 ~~4-5.~~ 5. Formalize proposals for coordination and cooperation between the Commonwealth and its local governments;

27 ~~5-6.~~ 6. Discuss state assistance to local governments, including financial, technical, and policy issues;

28 ~~6-7.~~ 7. Review services and shared programs between state and local governments, such as constitutional officers,
29 health, welfare and corrections; and

30 ~~7-8.~~ 8. Provide information on and assist in soliciting federal grants.

31 B. The Commission, upon the request of the Virginia Association of Counties, the Virginia Municipal League, or any
32 local governing body, may review the cost estimates prepared by the Commission on Local Government pursuant to § 30-
33 19.03 or executive agency assessments of mandates pursuant to § ~~2.1-7.1~~ 2.2-613. The Commission shall report annually on
34 or before the first calendar day of any regular session its findings, if any, to the Governor and the General Assembly.

35 **DRAFTING NOTE:** Technical corrections. The last sentence in proposed subsection B has been deleted as in conflict with
36 the Commission's reporting requirements set out in subsection F of § 2.2-2506 supra.

37 § ~~2.1-335.3.~~ 2.2-2508. State agencies to furnish information and assistance.

38 All agencies of the Commonwealth shall assist the Commission upon its request and furnish such information and
39 assistance as the Commission may require in the discharge of its duties.

40 **DRAFTING NOTE:** Technical corrections. This section was consolidated with other like sections and now appears in § 2.2-
41 2103, at the beginning of this Part D.

42 Article 4.

43 Virginia Commission for the Arts.

44 § ~~0-84.01:1~~ 2.2-2508. Commission continued and redesignated; appointment and terms of members, etc. Virginia

45 Commission for the Arts; official agency to receive and disburse funds from National Foundation on the Arts; membership;
46 terms; compensation.
47 A. The Virginia Commission of the Arts and Humanities created by Chapter 567 of the Acts of Assembly of 1968,
48 sometimes referred to in this chapter as "the Commission," is hereby continued as heretofore constituted, and redesignated
49 the Virginia Commission for the Arts. The Virginia Commission for the Arts (the "Commission") is established as an advisory
50 commission within the meaning of § 2.2-2100, in the executive branch of state government.

1 B. The Commission is designated the official agency of the Commonwealth to receive and disburse any funds made
2 available to the Commonwealth by the National Foundation on the Arts.

3 C. The Commission shall consist of thirteen members appointed by the Governor subject to confirmation by the
4 General Assembly. No employee of the Commonwealth or member of the General Assembly shall be eligible for appointment
5 as a member of the Commission. At least one member, but no more than two members, shall be appointed from each
6 Congressional district in the Commonwealth.

7 ~~B. Whenever in this Code or any other law of the Commonwealth the term Virginia Commission of the Arts and~~
8 ~~Humanities is used, it shall be taken to mean the Virginia Commission for the Arts.~~

9 D. Except for initial appointments, each member shall serve a five-year term; provided that no member of the
10 Commission who serves a full five-year term shall be eligible for appointment during the five-year period following the
11 expiration of his term. All vacancies shall be filled for the balance of the unexpired term in the same manner as original
12 appointments.

13 E. The Commission shall designate one of its members as chairman. A majority of the members of the Commission
14 shall constitute a quorum.

15 F. The members of the Commission shall not receive any compensation for their services, but shall be reimbursed
16 for the reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

17 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
18 A and C are from § 9-84.01:1, subsection B is from § 9-9-84:04, and subsections D through F are from § 9-84.02. The last
19 sentence in subsection E was added to clarify the quorum requirements for the Commission. Existing subsection B was
20 deleted as obsolete.

21 ~~§ 9-84.02. Terms; chairman; vacancies; expenses.~~

22 ~~The term of office of each member shall be five years; provided, however, that of the members first appointed, three~~
23 ~~shall be appointed for terms of one year, three for terms of three years, and three for terms of five years. No member of the~~
24 ~~Commission who serves a full five-year term shall be eligible for appointment during the five-year period following the~~
25 ~~expiration of his term. The Commission shall designate one of its members as chairman. All vacancies shall be filled for the~~
26 ~~balance of the unexpired term in the same manner as original appointments. The members of the Commission shall not~~
27 ~~receive any compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred in the~~
28 ~~performance of their duties as members of the Commission.~~

29 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections D through F in proposed § 2.2-2508
30 supra.

31 ~~§ 9-84.03 2.2-2509. Duties of the Commission.~~

32 A. The Commission shall perform among others the following duties:

33 1. Stimulate and encourage throughout the Commonwealth growth in artistic quality and excellence, public interest
34 and participation in the arts, and access to high quality and affordable art for all Virginians;

35 2. Make recommendations concerning appropriate methods to encourage economic viability, an intellectually
36 stimulating environment for artists, and participation in and appreciation of the arts to meet the legitimate needs and
37 aspirations of persons in all parts of the Commonwealth;

38 3. Promote the development and implementation of a planned, sequential, and comprehensive program of arts
39 education, taught by licensed teachers endorsed in arts education, in the public elementary and secondary schools of the
40 Commonwealth;

41 4. Provide supplemental learning opportunities to the public school arts education curriculum;

42 5. Encourage the development of a network of professional arts organizations, the media, and arts promoters,
43 including, but not limited to, the literary, visual, and performing arts for the production of classical and new works of art, and
44 diversity in artistic expressions;

45 6. Provide funding for and technical assistance to artists, recognized nonprofit arts organizations, and arts
46 organizations and activities which celebrate and preserve the various cultures represented among the citizens of the
47 Commonwealth;

48 7. Encourage and support the creation of new works of art, arts organizations whose primary objective is to increase
49 public access to the arts, particularly in underserved areas, and performing arts tours to increase the availability of this form
50 of artistic expression throughout the Commonwealth;

51 8. Establish a program of financial assistance to provide scholarships, grants, and other awards to artists who
52 demonstrate exceptional ability and talent;

53 9. Establish an advisory panel composed of artists, art administrators, and citizens to advise the Commission
54 concerning fiscal matters;

10. Encourage arts organizations to dedicate to endowment at least one dollar of the price of each adult admission to performances or exhibitions or at least one percent of moneys collected in fund campaigns;

11. Encourage arts organizations to develop and implement endowment enlargement plans which yield enough income to underwrite one-third of the organizations' annual operating costs;

12. Apply to any appropriate agency or officer of the United States for participation in or receipt of aid from any federal program respecting the arts, and, in respect thereto, enter into contracts and agreements with the United States or any appropriate agency thereof;

13. Provide incentives to local governments to encourage public support and funding of the arts;

14. Accept gifts, contributions and bequests of money or any other thing to be used for carrying out the purposes of this article;

15. Develop specific procedures for the administration and implementation of a program, so long as any such program is for the benefit of a nonprofit organization, qualifying as a § 501 (c) (3) organization under the Internal Revenue Code, whereby interest earned on endowment funds donated to stimulate and encourage public interest and enjoyment of music and the performing arts may be matched by state funds appropriated for this program, and prepare written guidelines to govern such program; and

16. Administer any funds available to the Commission and disburse such funds in accordance with the purposes of this article. In allocating funds to be disbursed to arts organizations, the Commission shall give preferential consideration to arts organizations actively implementing an endowment enlargement plan, either individually or as members of a regional consortium of arts organizations.

B. Nothing in this article shall be construed to affect the statutory purposes of the Virginia Museum of Fine Arts.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 9-84.03 and subsection B is § 9-84.06.

~~§ 9-84.04. Official agency to receive and disburse funds from National Foundation on the Arts.~~

~~The Commission is hereby designated the official agency of the Commonwealth to receive and disburse any funds made available to the Commonwealth by the National Foundation on the Arts.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-2508 supra.

~~§ 9-84.05. Cooperation of other agencies.~~

~~All departments, commissions, boards, agencies, officers and institutions of the Commonwealth or any political subdivision thereof shall cooperate with the Commission in carrying out the purposes of this chapter.~~

DRAFTING NOTE: Technical corrections. This section was consolidated with other like sections and now appears in Chapter 21, General provisions, at the beginning of this Part D as § 2.2-2103.

~~§ 9-84.06. Statutory purposes of Virginia Museum of Fine Arts not affected.~~

~~Nothing in this chapter shall be construed to affect the statutory purposes of the Virginia Museum of Fine Arts.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-2509 supra.

~~§ 9-84.07 2.2-2510. Agency supervision; employment of personnel; budget preparation.~~

The Governor may appoint a Director who shall serve at his pleasure. The Director may employ ~~such~~ the personnel ~~as may be~~ required to assist the Commission in the exercise and performance of its powers and duties. The Director shall supervise and manage such personnel and shall prepare, approve and submit all requests for appropriations, and be responsible for all expenditures pursuant to appropriations.

DRAFTING NOTE: Technical corrections only.

Article 5.

Commissioners for Promotion of Uniformity of Legislation.

~~§ 9-49 2.2-2511. Appointment of Commissioners; terms; compensation.~~

A. There shall be appointed by the Governor three Commissioners, who with any persons appointed life members are hereby constituted a board of Commissioners by the name and style of Commissioners for the Promotion of Uniformity of Legislation in the United States. The three Commissioners appointed by the Governor shall serve for a term of four years, with each such term commencing on October 1. A Commissioner appointed by the Governor shall serve until his successor is appointed.

B. Each of the Commissioners shall hold office at the pleasure of the Governor, and excepting life members, shall serve for a term of two years. Vacancies shall be filled by the Governor for unexpired terms.

1 C. The Commissioners shall receive no compensation for their services, but their necessary traveling and ho'
2 expenses shall be paid out of any funds which may be appropriated for such purposes.

3 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
4 A is § 9-49, subsection B is § 9-51 and subsection C is § 9-52.

5 ~~§ 9-502.2-2512. Duties; staff.~~

6 A. It shall be the duty of such Commissioners to examine subjects on which uniformity is desirable, to ascertain the
7 best means to effect uniformity in the laws of the states, and to represent the Commonwealth of Virginia in conventions of like
8 Commissioners appointed by other states to consider and draft uniform laws to be submitted for adoption by the several
9 states, and to devise and recommend such other course of action as shall best accomplish the purpose of this chapter article.

10 B. The Commissioners shall, on or before July 1 in each year, make a detailed report to the General Assembly on
11 their work and activities. Staff support shall be provided by the Division of Legislative Services.

12 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
13 A is § 9-50 and subsection B is § 9-52.1.

14 ~~§ 9-51. Terms of office and vacancies.~~

15 ~~Each of the Commissioners shall hold office at the pleasure of the Governor, and excepting life members, shall serve~~
16 ~~for a term of two years. Vacancies shall be filled by the Governor for unexpired terms.~~

17 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2511.

18 ~~§ 9-52. Expenses.~~

19 ~~The Commissioners shall receive no compensation for their services, but their necessary traveling and hotel~~
20 ~~expenses shall be paid out of any funds which may be appropriated for such purposes.~~

21 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2511.

22 ~~§ 9-52.1. Annual reports; staff support.~~

23 ~~The Commissioners shall, on or before July 1 in each year, make a detailed report to the General Assembly on their~~
24 ~~work and activities. Staff support shall be provided by the Division of Legislative Services.~~

25 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2512.

26 CHAPTER 26.

27 COUNCILS.

28 Article 1.

29 Advisory Council on the Virginia Business-Education Program.

30 ~~§ 9-325 2.2-2600. Advisory Council on the Virginia Business-Education Partnership Program—established;~~
31 ~~membership; terms; compensation; chairman and vice chairman.~~

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

37 B. The Council shall be composed of twenty members as follows: the Secretary of Education or his designee, the
38 Secretary of Commerce and Trade or his designee, and eighteen members appointed by the Governor to include one
39 representative each from the Department of Education and the Office of Volunteerism; one member each from the House of
40 Delegates and the Senate; one representative of the Virginia Chamber of Commerce; and thirteen members who represent
41 business, industry, education, and employees, including one community college president, one president of a four-year
42 institution of higher education, one school superintendent, one public school teacher, one school board member, and at least
43 five representatives of private business and industry. Interested organizations may submit nominations for membership to the
44 Governor. Members appointed by the Governor shall represent the various geographical areas of the Commonwealth.

45 C. Initial appointments by the Governor shall be as follows: nine members for two-year terms and nine members for
46 one-year terms. Thereafter, all appointments shall be for terms of two years, except that appointments to fill vacancies shall
47 be for the unexpired terms. No appointed member shall be eligible to serve for or during more than four successive two-year
48 terms, but after the expiration of a term of one year or less, or after the expiration of the remainder of a term to which
49 appointed to fill a vacancy, four additional two-year terms may be served by such member if appointed thereto.

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

3 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
4 A is § 9-325 and subsection B through D are from § 9-326. The last sentence in subsection D was added to clarify the
5 quorum requirements for the Council.

6 ~~§ 9-326. Membership; chairman; vice chairman; executive committee.~~

7 ~~A. The Advisory Council shall be composed of twenty members as follows: the Secretary of Education or his~~
8 ~~designee, the Secretary of Commerce and Trade or his designee, and eighteen members appointed by the Governor to~~
9 ~~include one representative each from the Department of Education and the Office of Volunteerism; one member each from~~
10 ~~the House of Delegates and the Senate; one representative of the Virginia Chamber of Commerce; and thirteen members~~
11 ~~who represent business, industry, education, and employees, including one community college president, one president of a~~
12 ~~four year institution of higher education, one school superintendent, one public school teacher, one school board member,~~
13 ~~and at least five representatives of private business and industry. Interested organizations may submit nominations for~~
14 ~~membership to the Governor. Members appointed by the Governor shall represent the various geographical areas of the~~
15 ~~Commonwealth.~~

16 ~~B. Initial appointments by the Governor shall be as follows: nine members for two year terms and nine members for~~
17 ~~one year terms. Thereafter, all appointments shall be for terms of two years, except that appointments to fill vacancies shall~~
18 ~~be for the unexpired terms. No appointed member shall be eligible to serve for or during more than four successive two year~~
19 ~~terms, but after the expiration of a term of one year or less, or after the expiration of the remainder of a term to which~~
20 ~~appointed to fill a vacancy, four additional two year terms may be served by such member if appointed thereto.~~

21 ~~C. The Governor shall select a chairman and a vice chairman from among Council members.~~

22 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through D in proposed § 2.2-2600
23 supra.

24 ~~§ 9-327 2.2-2601. Executive director.~~

25 The Secretary of Education shall appoint an executive director for the Council, who ~~shall be authorized to~~ may
26 employ such staff as necessary to enable the ~~Advisory Council~~ to perform its duties as set forth in this ~~chapter~~ article. The
27 Secretary is ~~authorized to~~ may determine the duties of such staff and to fix salaries and compensation from such funds as
28 may be appropriated or received.

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§ 9-328 2.2-2602. Meetings; powers Powers and duties of the Council; acceptance of gifts and grants.~~

31 ~~A. The Advisory Council shall meet quarterly and shall:~~

- 32 1. Assist the Secretary of Education in the implementation of the Virginia Business-Education Partnership Program;
33 2. Serve as an advisor to the Workforce 2000 Advocacy Council; and
34 3. Perform any act or function ~~which that~~ is in accord with the purposes of this ~~chapter~~ article.

35 ~~B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable~~
36 ~~it to carry out its objectives.~~

37 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
38 A is § 9-328 and subsection B is § 9-329.

39 ~~§ 9-329. Application for and acceptance of gifts and grants.~~

40 ~~The Advisory Council is authorized to apply for, accept, and expend gifts, grants, or donations from public or private~~
41 ~~sources to enable it to carry out its objectives.~~

42 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2602 supra.

43 Article 2.

44 Blue Ridge Economic Development Advisory Council.

45 ~~§ 9-145-35 2.2-2603. Blue Ridge Economic Development Advisory Council established; membership; terms;~~
46 ~~quorum; staff; Blue Ridge defined.~~

47 A. The Blue Ridge Economic Development Advisory Council is ~~hereby established and shall be referred to in this~~
48 ~~chapter as the Council as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government.~~
49 The Council shall ~~be composed~~ consist of eleven members, all residents of the Blue Ridge region, to be appointed by the
50 Governor as follows: one member from each of the six different marketing groups in the Blue Ridge region; the chairman of
51 the Blue Ridge Economic Development Commission or, if the Commission has expired, a member of the Virginia General

1 Assembly; a representative of a major bank headquartered in the region involved in economic development efforts in the
2 region; a representative of the major electric utility in the region; a representative of a major railroad headquartered in the
3 region; and a representative knowledgeable about economic development from Virginia Polytechnic Institute and State
4 University.

5 ~~B. Of the members to be appointed in 1992, three shall be appointed for two-year terms, four shall be appointed for~~
6 ~~three-year terms and four shall be appointed for four-year terms. Thereafter, After the original appointments, all appointments~~
7 ~~shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall~~
8 ~~be eligible to serve for more than two successive four-year terms; however, after the expiration of a term of three years or~~
9 ~~less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served~~
10 ~~by such member if appointed thereto.~~

11 ~~C. Each member of the Council, before assuming the duties of this office, shall take and subscribe the oath~~
12 ~~prescribed in § 49-1.~~

13 ~~D. Six A majority of the members of the Council shall constitute a quorum, and the affirmative vote of a majority of~~
14 ~~the quorum present shall be necessary for any action taken by the Council. No vacancy in the membership of the Council~~
15 ~~shall impair the right of a quorum to exercise all the rights and perform the duties of the Council.~~

16 D. The Council shall elect a chairman from its membership.

17 E. Planning district commissions in the region shall provide staff support to the Council as requested.

18 F. For purposes of this article, "Blue Ridge" shall include the Counties of Alleghany, Amherst, Appomattox, Augusta,
19 Bath, Bedford, Bland, Botetourt, Campbell, Craig, Floyd, Franklin, Giles, Highland, Montgomery, Nelson, Pulaski, Roanoke,
20 Rockbridge and Wythe and the Cities of Bedford, Buena Vista, Clifton Forge, Covington, Lexington, Lynchburg, Radford,
21 Roanoke, Salem, Staunton and Waynesboro.

22 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
23 A through D are § 9-145.35, subsection E is § 9-145.39, and subsection F is § 9-145.36. Existing subsection C has been
24 deleted as duplicative of § 49-1. There is a lack of uniformity among the definitions of "Blue Ridge" found here and in the
25 Blue Ridge Regional Education and Training Council and the Blue Ridge Regional Tourism Council.

26 ~~§ 9-145.36. Blue Ridge region defined.~~

27 ~~For purposes of this chapter, "Blue Ridge" shall include the Counties of Alleghany, Amherst, Appomattox, Augusta,~~
28 ~~Bath, Bedford, Bland, Botetourt, Campbell, Craig, Floyd, Franklin, Giles, Highland, Montgomery, Nelson, Pulaski, Roanoke,~~
29 ~~Rockbridge and Wythe and the Cities of Bedford, Buena Vista, Clifton Forge, Covington, Lexington, Lynchburg, Radford,~~
30 ~~Roanoke, Salem, Staunton and Waynesboro.~~

31 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection F in proposed § 2.2-2603 supra.

32 ~~§ 9-145.372.2-2604. Responsibilities; duties~~ Duties of the Council.

33 The Council shall:

- 34 1. Encourage Blue Ridge counties, cities and towns to work cooperatively to promote the region's strengths and
35 advantages;
- 36 2. Allow the six different marketing groups to plan a coordinated effort to maximize the region's marketing efforts;
- 37 3. Support and encourage each locality or group of localities to foster its own marketing programs, growth strategies
38 and individual identities;
- 39 4. Apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its
40 objectives;
- 41 5. Establish a pilot export program to encourage the region's industry to consider exporting as a way to increase
42 sales; and
- 43 6. Identify and assist in the implementation of affordable child-care options in the region.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 9-145.39. Cooperation of state agencies; planning district commissions.~~

46 ~~All agencies of the Commonwealth shall cooperate with the Council and, upon request, assist the Council in the~~
47 ~~performance of its duties and responsibilities. Planning district commissions in the region shall provide staff support to the~~
48 ~~Council as requested.~~

49 **DRAFTING NOTE:** Technical corrections. The last sentence in this section was consolidated with other like sections and now
50 appears in Chapter 21, General provisions, at the beginning of this Part D. The first sentence of this section now appears as
51 subsection E in proposed § 2.2-2603 supra.

Article 3.

Blue Ridge Regional Education And Training Council.

~~§ 9-145.30 2.2-2605. Blue Ridge Regional Education and Training Council established; duties; membership; terms; staff; Blue Ridge defined.~~

~~A. The Blue Ridge Regional Education and Training Council (the "Council") is hereby established and shall be referred to in this chapter as the Council. For the purposes of this chapter and the work of the Council, the "Blue Ridge" region shall include the Counties of Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Campbell, Craig, Floyd, Franklin, Giles, Highland, Montgomery, Nelson, Pulaski, Roanoke, and Rockbridge, and the Cities of Bedford, Buena Vista, Clifton Forge, Covington, Lexington, Lynchburg, Radford, Roanoke, Salem, Staunton, and Waynesboro. The Council shall perform the following functions:~~

- ~~1. Provide general leadership in the region for education and business partnership programs and excellence in education;~~
- ~~2. Encourage and expand business participation and involvement in public education and to foster partnerships between the public and private sectors to enhance public education in the Blue Ridge region;~~
- ~~3. Collect, generate, and disseminate ideas and information regarding educational innovations and effective instructional practices pertinent to the Blue Ridge region;~~
- ~~4. Coordinate with business and industry throughout the region to ascertain those skills, education, and training that businesses seek from entry level workers;~~
- ~~5. Serve as a resource and referral center for area school divisions by maintaining and disseminating information on existing educational programs and resources;~~
- ~~6. Develop, in coordination with the Department of Education and local school boards, specific goals for public education in the Blue Ridge region and, to annually evaluate the local school boards' progress toward these goals, and to adjust local plans if the need arises;~~
- ~~7. Promote the coordination of elementary, secondary, and higher education and adult education and worker training;~~
- ~~8. Sponsor a series of seminars throughout the region to discuss, plan, and receive comments on how to upgrade the region's adult workforce;~~
- ~~9. Develop, in coordination with the Department of Education and local school boards, incentives for school systems that subscribe to integrated applied educational programs which prepare students for post high school education or employment;~~
- ~~10. Promote and expand, in coordination with the Department of Labor and Industry, apprenticeship training for youth and adults in the region; and~~
- ~~11. Investigate and formulate a model student volunteer program and assist school systems in developing and implementing such programs.~~

~~as a policy council, within the meaning of § 2.2-2100, in the executive branch of state government. The Council shall be composed of twenty-one members to be appointed by the Governor as follows: nine members representing business and industry; six members representing the education community, including one representative of the Roanoke Graduate Center, one representative of a four-year private college or university, one community college president or dean, one school superintendent, one public school teacher, and one school board member; four local elected officials; and two citizen members. Council members shall be chosen from among residents of the Blue Ridge region of the Commonwealth.~~

~~B. After the original appointments, all appointments shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to serve for or during more than two successive four-year terms, but after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such member if appointed thereto.~~

~~C. The Council shall elect a chairman and a vice-chairman from among its members. The Council shall meet at least four times a year and at such dates and times as they determine. A majority of the members of the Council shall constitute a quorum.~~

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

~~E. For the purposes of this article, the "Blue Ridge" region shall include the Counties of Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Campbell, Craig, Floyd, Franklin, Giles, Highland, Montgomery, Nelson, Pulaski, Roanoke, and Rockbridge, and the Cities of Bedford, Buena Vista, Clifton Forge, Covington, Lexington, Lynchburg, Radford, Roanoke, Salem, Staunton, and Waynesboro.~~

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsections A through D are from § 9-145.31 and subsection E is § 9-145.30. The last sentence in subsection C was added to clarify the

1 quorum requirements for the Council. Language stricken relating the duties of the Council now appears in proposed § 2.2-
2 2606 infra. There is a lack of uniformity among the definitions of "Blue Ridge" found here and in the Blue Ridge Advisory
3 Council and the Blue Ridge Regional Tourism Council.

4 ~~§ 9-145.31. Membership; terms; compensation; chairman and vice chairman; meetings.~~

5 ~~A. The Council shall be composed of twenty one members to be appointed by the Governor as follows: nine~~
6 ~~members representing business and industry; six members representing the education community, including one~~
7 ~~representative of the Roanoke Graduate Center, one representative of a four year private college or university, one~~
8 ~~community college president or dean, one school superintendent, one public school teacher, and one school board member;~~
9 ~~four local elected officials; and two citizen members. Council members shall be chosen from among residents of the Blue~~
10 ~~Ridge region of the Commonwealth.~~

11 ~~B. Of the members to be appointed in 1992, seven shall be appointed for two year terms, seven shall be appointed~~
12 ~~for three year terms, and seven shall be appointed for four year terms. Thereafter, all appointments shall be for terms of four~~
13 ~~years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to serve for or~~
14 ~~during more than two successive four year terms, but after the expiration of a term of three years or less, or after the~~
15 ~~expiration of the remainder of a term to which appointed to fill a vacancy, two additional four year terms may be served by~~
16 ~~such member if appointed thereto.~~

17 ~~C. Members of the Council shall be reimbursed for their actual expenses incurred in the performance of their duties~~
18 ~~in the work of the Council.~~

19 ~~D. The Council shall elect a chairman and a vice chairman from among its members. The Council shall meet at least~~
20 ~~four times a year and at such dates and times as they determine.~~

21 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections A through D in proposed § 2.2-2605
22 supra.

23 § 2.2-2606. Duties of the Council; acceptance of gifts and grants.

24 A. The Council shall perform the following functions:

25 1. Provide general leadership in the region for education and business partnership programs and excellence in
26 education;

27 2. Encourage and expand business participation and involvement in public education and to foster partnership
28 between the public and private sectors to enhance public education in the Blue Ridge region;

29 3. Collect, generate, and disseminate ideas and information regarding educational innovations and effective
30 instructional practices pertinent to the Blue Ridge region;

31 4. Coordinate with business and industry throughout the region to ascertain those skills, education, and training that
32 businesses seek from entry level workers;

33 5. Serve as a resource and referral center for area school divisions by maintaining and disseminating information on
34 existing educational programs and resources;

35 6. Develop, in coordination with the Department of Education and local school boards, specific goals for public
36 education in the Blue Ridge region and to annually evaluate the local school boards' progress toward these goals, and to
37 adjust local plans if the need arises;

38 7. Promote the coordination of elementary, secondary, and higher education and adult education and worker
39 training;

40 8. Sponsor a series of seminars throughout the region to discuss, plan, and receive comments on how to upgrade
41 the region's adult workforce;

42 9. Develop, in coordination with the Department of Education and local school boards, incentives for school systems
43 that subscribe to integrated-applied educational programs that prepare students for post-high school education or
44 employment;

45 10. Promote and expand, in coordination with the Department of Labor and Industry, apprenticeship training for
46 youth and adults in the region; and

47 11. Investigate and formulate a model student volunteer program and assist school systems in developing and
48 implementing such programs.

49 B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable
50 it to carry out its objectives.

51 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
52 A is § 9-145.30 and subsection B is § 9-145.33.

53 § 9-145.32 2.2-2607. Executive director; staff support; location.

1 The Council shall appoint an executive director, who shall be authorized to ~~may~~ employ such staff as necessary to
2 enable the Council to perform its duties as set forth in this ~~chapter~~ article. The Council is ~~authorized to~~ may determine the
3 duties of such staff and to fix salaries and compensation from such funds as may be appropriated or received. Regional
4 resource personnel from the Department of Education shall also provide staff support to the Council. The Council's offices
5 shall be housed at Virginia Western Community College.

6 **DRAFTING NOTE:** Technical correction only.

7 ~~§ 9-145.33. Application for and acceptance of gifts and grants.~~

8 ~~The Council is authorized to apply for, accept, and expend gifts, grants, or donations from public or private sources~~
9 ~~to enable it to carry out its objectives.~~

10 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2606 (Duties of the
11 Council) supra.

12 ~~§ 9-145.33:1 2.2-2608.~~ Blue Ridge Regional Education and Training Council Fund.

13 From such funds as may be received pursuant to subsection B of § 9-145.33-2.2-2606 or appropriated by the
14 General Assembly, there is ~~herby~~ established the Blue Ridge Regional Education and Training Council Fund (the "Fund") to
15 support the Council's education and training programs. The Fund shall be established on the books of the Comptroller.
16 Moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund.
17 Interest earned on such funds shall remain in the Fund and be credited to it.

18 **DRAFTING NOTE:** Technical corrections only.

19 ~~§ 9-145.34. Cooperation of other agencies.~~

20 ~~All agencies of the Commonwealth shall cooperate with the Council and, upon request, assist the Council in the~~
21 ~~performance of its duties and responsibilities.~~

22 **DRAFTING NOTE:** Technical corrections. This section was consolidated with other like sections and now appears in Chapter
23 21, General provisions, at the beginning of this Part D as § 2.2-2103.

24 Article 4.

25 Blue Ridge Regional Tourism Council.

26 ~~§ 9-145.39:1 2.2-2609.~~ Blue Ridge Regional Tourism Council established; duties; membership; meetings; Blue
27 Ridge defined.

28 A. The Blue Ridge Regional Tourism Council (the "Council") is hereby established and shall be referred to in this
29 chapter as the Council. For the purposes of this chapter and the work of the Council, the "Blue Ridge" region shall include
30 the Counties of Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Campbell, Craig, Floyd, Franklin,
31 Giles, Highland, Montgomery, Nelson, Pulaski, Roanoke, Rockbridge, and Wythe and the Cities of Bedford, Buena Vista,
32 Clifton Forge, Covington, Lexington, Lynchburg, Radford, Roanoke, Salem, Staunton, and Waynesboro, as an advisory
33 council, within the meaning of § 2.2-2100, in the executive branch of state government. The Council shall be composed of
34 one representative of each of the destination marketing organizations (DMOs) located in the Blue Ridge region and the
35 President of the Virginia Tourism Authority.

36 B. The Council shall elect a chairman and a vice-chairman from among its members. The Council shall meet at least
37 four times a year at such dates and times as they determine.

38 C. For the purposes of this article, the "Blue Ridge" region shall include the Counties of Alleghany, Amherst,
39 Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Campbell, Craig, Floyd, Franklin, Giles, Highland, Montgomery,
40 Nelson, Pulaski, Roanoke, Rockbridge, and Wythe and the Cities of Bedford, Buena Vista, Clifton Forge, Covington,
41 Lexington, Lynchburg, Radford, Roanoke, Salem, Staunton, and Waynesboro.

42 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
43 B, and C are §§ 9-145.39:1 and subsection A is § 9-145.39:2. There is a lack of uniformity among the definitions of "Blue
44 Ridge" found here and in the Blue Ridge Regional Education and Training Council and the Blue Ridge Advisory Council.

45 ~~§ 9-145.39:2. Membership; chairman and vice chairman; meetings.~~

46 ~~A. The Council shall be composed of one representative of each of the destination marketing organizations (DMOs)~~
47 ~~located in the Blue Ridge region, as defined in § 9-145.39:1 and the Director of Tourism for the Virginia Economic~~
48 ~~Development Partnership.~~

49 ~~B. The Council shall elect a chairman and a vice chairman from among its members. The Council shall meet at least~~
50 ~~four times a year at such dates and times as they determine.~~

51 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections A and B in proposed § 2.2-2609 supra.

1 ~~§ 9-145.39:3, 2-2610.~~ Duties of the Council; acceptance of gifts and grants.

2 A. The Council shall perform the following functions:

3 1. Assist localities in the region, as well as the General Assembly, with the problems, concerns and issues of the
4 tourism industry in the Blue Ridge region;

5 2. Encourage a cooperative attitude among the localities of the region and assist in the establishment of successful
6 tourism partnerships between private and public organizations;

7 3. Develop and assist in the implementation of a plan to increase tourism revenue within the Blue Ridge region;

8 4. Review and disseminate information to the localities in this region concerning statewide and national tourism
9 associations;

10 5. Encourage localities in the region to participate in the Virginia Local Tourism Accreditation Program; and

11 6. Encourage localities to invest in tourism development as an integral part of their overall economic development.

12 B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable
13 it to carry out its objectives.

14 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
15 A is § 9-145.39:3 and subsection B is § 9-145.39:4.

16 ~~§ 9-145.39:4. Application for and acceptance of gifts and grants.~~

17 ~~The Council is authorized to apply for, accept, and expend gifts, grants, or donations from public or private sources
18 to enable it to carry out its objectives.~~

19 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2610 supra.

20 Article 5.

21 Capitol Square Preservation Council.

22 ~~§ 9-304.1. Definitions.~~

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

24 ~~"Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond
25 bounded by Bank, Governor, Broad and Ninth Streets. The term also includes the exterior of all state buildings that are at
26 least fifty years old and bordering the boundary streets. The term does not include the interiors of the General Assembly
27 Building, the Washington Building, the Jefferson Building, or the Governor's Mansion.~~

28 ~~"Council" means the Capitol Square Preservation Council.~~

29 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 2.2-2611 infra. This
30 article relating to the Capitol Square Preservation Council, created pursuant to Chapter 976 of the 1999 Acts of Assembly,
31 supercedes the Commission for the Preservation of the Capitol.

32 ~~§ 9-304.2 2.2-2611. Capitol Square Preservation Council created; membership; terms; meetings; compensation;
33 "Capitol Square" defined.~~

34 ~~A. There is hereby created the~~ The Capitol Square Preservation Council (the "Council") is established as an advisory
35 council, within the meaning of § 2.2-2100, in the executive branch of state government. ~~The Council shall be composed~~
36 consist of fourteen members including three ex officio members as follows: three members selected by the Speaker of the
37 House, one each from lists of nominations provided by the governing bodies of The Garden Club of Virginia, the Historic
38 Richmond Foundation and the Association for the Preservation of Virginia Antiquities; two members selected by the Senate
39 Committee on Privileges and Elections, one each from lists of nominations provided by the governing bodies of the Virginia
40 Society of the American Institute of Architects and the Virginia Museum of Fine Arts; and six members selected by the
41 Governor, one each from lists of nominations provided by the governing bodies of the Virginia Chapter of the American
42 Society of Landscape Architects and the Virginia Historical Society, one each from the memberships of the Virginia Public
43 Buildings Board and the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion and two citizens at
44 large. The Secretary of Administration, or his designee, and the Clerks of the House of Delegates and the Senate shall serve
45 ex officio with voting privileges.

46 ~~B. All appointments to the Council shall be for terms of three years, except that initial appointments shall have be for~~
47 the following terms: of those appointed by the Speaker of the House, one shall have a three-year term, one shall have a two-
48 year term and one shall have a one-year term; of those appointed by the Senate Committee on Privileges and Elections, one
49 shall have a three-year term, and one shall have a two-year term; of those appointed by the Governor, two shall have three-
50 year terms, two shall have two-year terms and two shall have one-year terms. Vacancies occurring other than by expiration of
51 a term shall be filled for the unexpired term in the same manner as the original appointment. Any member may be
52 reappointed for any number of multiple terms, except that members may not be reappointed to more than two successive

~~three-year terms. No member shall be eligible to serve more than two successive four-year terms. However, after expiration of a term of three years or less, or after the expiration of the remainder of a term to which he was appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto.~~

C. The members of the Council shall elect from among its membership a chairman and a vice-chairman for two-year terms. The chairman and vice-chairman may not succeed themselves to the same position. The Council shall hold meetings quarterly, or upon the call of the chairman. A majority of the members of the Council shall constitute a quorum.

~~D. All members—~~Members of the Council shall not receive compensation, but shall be reimbursed for their actual reasonable and necessary expenses incurred by them in the ~~performance discharge~~ of their duties ~~in the work of the Council as provided in § 2.2-2825.~~

E. For the purposes of this article, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad and Ninth Streets. The term also includes the exterior of all state buildings that are at least fifty years old and bordering the boundary streets. The term does not include the interiors of the General Assembly Building, the Washington Building, the Jefferson Building, or the Governor's Mansion.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsections A through D are § 9-304.2 and subsection E is from § 9-304.1. The last sentence in subsection B was added to clarify the quorum requirements for the Board. In subsection B, language relating to serving additional terms was clarified.

~~§ 9-304.3 2.2-2612. Council powers—~~Powers and duties of the Council; executive director; annual report.

A. With regard to the architectural, historical, archeological and landscape features of Capitol Square and antiquities contained therein, the Council shall:

1. Inventory and assess their condition;
2. Develop plans and recommendations for their maintenance and preservation and for the enhancement of their historical and architectural integrity;
3. Develop recommendations for the promotion of activities and efforts that will enhance interpretive and educational opportunities; and
4. Review all plans or proposals for alterations, improvements, additions, renovations or other disposition that is structural or architectural in nature. No implementation of such plans or proposals shall take place prior to review by the Council. The Council shall report its findings on each plan or proposal to the Governor and the agency responsible for the plan or proposal. However, the Council's executive director and the Director of the Department of General Services shall enter into a memorandum of agreement describing the type of plans and proposals that are of such a routine or operational nature to not require review by the Council.

B. The Council may employ an executive director and determine his duties and compensation within the amounts appropriated therefor. The executive director shall be qualified to carry out the duties to which he is assigned and shall work at the pleasure of the Council. The Council may also obtain such assistance as it may deem necessary, and may employ, within the amounts appropriated therefor, experts who have special knowledge of the issues before the Council.

C. The Council may, unless otherwise restricted by the Governor or the General Assembly, under terms approved by the Attorney General, accept gifts and grants in furtherance of its duties. This provision shall be deemed to be in addition to and not in conflict with any other powers or authorities related to the acceptance of gifts and grants under other provisions of this Code.

D. The Council may enter into contracts in the furtherance of its duties in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

E. The Council shall make a report on its activities and recommendations, if any, annually by December 1 to the Governor and the General Assembly. The Council shall make such further interim reports to the Governor and the General Assembly as it deems advisable or as required by the General Assembly.

DRAFTING NOTE: Technical corrections. Subsection E is derived from existing § 9-304.6.

~~§ 9-304.4 2.2-2613. Executive—~~Duties of the executive director.

A. The executive director shall serve as curator for the architectural, historical, archeological and landscape features of Capitol Square. Neither the Council nor the executive director in fulfilling his responsibilities as curator shall act in a manner inconsistent with ~~§ 2-1-499~~ subsection A of 2.2-1144.

B. The executive director shall work under the direction and control of the Council and shall exercise ~~such—the~~ powers and ~~perform such duties as are~~ conferred upon him by law or requested by the Council pursuant to authorities conferred upon it by this chapter article.

C. The executive director shall be vested with the authority of the Council when it is not in session, subject to ~~such~~ guidelines or delegations as prescribed by the Council may prescribe.

1 D. The executive director shall, upon request, act as an advisor to the Governor, the Art and Architectural Re-
2 Board, the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion and other state agencies de-
3 with architectural, historical, archeological and landscape features of Capitol Square.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 9-304.5. Assistance to Council.~~

6 ~~All agencies of the Commonwealth shall assist the Council upon request.~~

7 **DRAFTING NOTE:** Technical corrections. The last sentence in this section was consolidated with other like sections and
8 now appears in Chapter 21, General provisions, at the beginning of this Part D as § 2.2-2103.

9 ~~§ 9-304.6. Annual report.~~

10 ~~The Council shall make a report on its activities and recommendations, if any, annually by December 1 to the~~
11 ~~Governor and the General Assembly. The Council shall make such further interim reports to the Governor and the General~~
12 ~~Assembly as it shall deem advisable or as may be required by the General Assembly.~~

13 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 2.2-2612 supra.

14 Article 6.

15 Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16 ~~§ 9-84.5 2.2-2614. Committee continued as Citizens' Advisory Council on Furnishing and Interpreting the Executive~~
17 ~~Mansion; membership; to be purpose as a nonprofit charitable organization; membership; terms; officers and executive~~
18 ~~groups; compensation.~~

19 ~~The Citizens' Advisory Committee on Furnishing and Interpreting the Executive Mansion is continued and shall~~
20 ~~hereafter be known as the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion. A. The Citizens'~~
21 ~~Advisory Council on Furnishing and Interpreting the Executive Mansion (the "Council") is established as an advisory council~~
22 ~~in the executive branch of state government to operate as a nonprofit charitable organization. No part of the Council's net~~
23 ~~earnings shall inure to the benefit of any private individual nor shall it carry on propaganda or otherwise attempt to influence~~
24 ~~legislation or participate in any political campaign on behalf of any candidate for public office.~~

25 ~~B. The Council shall not exceed thirty members, who shall be appointed by the Governor. No employee of~~
26 ~~Commonwealth or member of the General Assembly shall be eligible for appointment as a member of the Council.~~
27 ~~Members shall be deemed members-at-large charged with the responsibility of serving the best interests of the whole~~
28 ~~Commonwealth and no member shall act as representative of any particular region or of any particular agency or activity.~~

29 ~~The Council shall operate as a nonprofit charitable organization and no part of its net earnings shall inure to the~~
30 ~~benefit of any private individual nor shall it carry on propaganda or otherwise attempt to influence legislation or participate in~~
31 ~~any political campaign on behalf of any candidate for public office.~~

32 ~~C. Of the members first appointed, nine shall be appointed for terms of one year, nine for terms of three years, and~~
33 ~~the remaining number for terms of five years. After the original appointments, all appointments shall be for five-year terms. No~~
34 ~~member of the Council who serves a full five-year term shall be eligible for reappointment; provided, however, that one year~~
35 ~~after the termination of his or her appointment, a member shall be eligible for reappointment. All vacancies shall be filled for~~
36 ~~the unexpired term in the same manner as the original appointments.~~

37 ~~D. The spouse of the Governor, if any, shall be the honorary chairperson of the Council. The Governor shall~~
38 ~~designate one member of the Council to serve as chairman of an executive group, such executive group to be determined by~~
39 ~~the Council, and to be composed of members of the Council. Other advisory and cooperative groups may be appointed by the~~
40 ~~chairman. After the chairman has served three years, the Council thereafter shall elect its chairman.~~

41 ~~E. Members of the Council shall not receive any compensation or reimbursement of expenses for their services.~~

42 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
43 A and B are § 9-84.5 and subsections C through E are § 9-84.6. In subsection D, the term "wife" was replaced with "spouse."

44 ~~§ 9-84.6. Terms; vacancies; officers; executive and other groups; compensation.~~

45 ~~The term of office of each member shall be five years; provided, however, that of the members first appointed, nine~~
46 ~~shall be appointed for terms of one year, nine for terms of three years, and the remaining number for terms of five years. After~~
47 ~~the original appointment, each subsequent appointment shall be for a full five-year term. No member of the Council who~~
48 ~~serves a full five-year term shall be eligible for reappointment; provided further, however, that one year after the termination of~~
49 ~~his or her appointment, a member shall be eligible for reappointment. All vacancies shall be filled for the balance of the~~
50 ~~unexpired term in the same manner as the original appointments. The wife of the Governor of Virginia shall be the honorary~~
51 ~~chairman of the Council. The Governor shall designate one member of the Council to serve as chairman of an executive~~
52 ~~group, such executive group to be determined by the Council, and to be composed of members of the Council. Other ad~~

1 and cooperative groups may be appointed by the chairman. After the chairman has served three years, the Council thereafter
2 shall elect its chairman. Members of the Council shall not receive any compensation or reimbursement of expenses for their
3 services.

4 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections C through E in proposed § 2.2-2614
5 supra.

6 ~~§ 9-84.7 2.2-2615. Powers and duties of Council; compensation for consultants.~~

7 ~~A. The Council shall have the following powers and responsibilities and shall perform the following duties:~~

8 ~~(a) 1. Promote a greater understanding and awareness of the history and significance of the Executive Mansion;~~

9 ~~(b) 2. Take the leadership in guiding the development of research and publications on the history of the Executive
10 Mansion, thus establishing a continuity of effort in this area;~~

11 ~~(c) 3. Encourage, approve, and accept contributions and bequests and gifts or loans of furniture, works of art,
12 memorabilia, and other property for its use in carrying out the purposes of this chapter article;~~

13 ~~(d) 4. Purchase appropriate period furnishings and works of art for the Executive Mansion, and exchange or sell
14 property, tangible or intangible, which has been acquired by the Council through gifts or otherwise from the Commonwealth or
15 other public or private organizations, associations, or individuals;~~

16 ~~(e) 5. Acquire or provide for accession and replacement of objects for the Executive Mansion, either directly or
17 through the Virginia Museum of Fine Arts;~~

18 ~~(f) 6. Administer all funds, public and private, made available to the Council and to disburse such funds in
19 accordance with the purposes of this chapter article.~~

20 ~~B. The Council may employ and fix the compensation of researchers, writers, curators, and other such consultants
21 and professional personnel as it may deem necessary to assist in the exercise and performance of its duties and powers.~~

22 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
23 A is § 9-84.7 and subsection B is § 9-84.8.

24 ~~§ 9-84.8. Compensation of consultants and professional personnel.~~

25 ~~The Council may employ and fix the compensation of researchers, writers, curators, and other such consultants and
26 professional personnel as it may deem necessary to assist in the exercise and performance of its duties and powers.~~

27 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2615 supra.

28 ~~§ 9-84.9. Cooperation of other agencies.~~

29 ~~All departments, commissions, boards, agencies, officers, and institutions of the Commonwealth or political
30 subdivisions thereof shall cooperate with the Council in carrying out its powers and the purposes of this chapter.~~

31 **DRAFTING NOTE:** Technical corrections. The last sentence in this section was consolidated with other like sections and
32 now appears in Chapter 21, General provisions, at the beginning of this Part D as § 2.2-2103.

33 ~~§ 9-84.10 2.2-2616. Disposition of moneys and property received.~~

34 ~~All moneys received by the Council shall be paid into the state treasury of Virginia and segregated as a special fund
35 to be used by the Council to carry out the purposes of this chapter article. All moneys so paid into the fund are hereby
36 appropriated to the Council for the purpose of administering the provisions of this chapter. All other property, tangible or
37 intangible, which is acquired by the Council shall become the property of the Commonwealth upon such acquisition. Such
38 other intangible property may be held in the name of a nominee to facilitate its sale or exchange by the Council, and such
39 other tangible property may be sold or exchanged by the Council as agent for the Commonwealth notwithstanding any other
40 provision of law concerning the sale or exchange of property of the Commonwealth.~~

41 **DRAFTING NOTE:** Technical corrections. The stricken language has been deleted as an unconstitutional appropriation of
42 money for a period exceeding 30 months.

43 Article 7.

44 Commonwealth Attorneys Services Council.

45 ~~§ 2-1-64.28:1 2.2-2617. Commonwealth Attorneys Services Council created; supervision; purpose; membership;
46 organization, etc terms; compensation.~~

47 ~~In order A. The Commonwealth Attorneys Services Council is established as a supervisory council, within the
48 meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to ensure the
49 upgrading of criminal justice administration by providing and coordinating training, education and services for attorneys for the~~

1 Commonwealth, there is hereby created in the executive branch the Commonwealth's Attorneys' Services Council which that
2 shall be under the direction and control of the Governor.

3 B. The Council shall be composed consist of not more than sixteen members, as follows: one attorney for the
4 Commonwealth for each congressional district in the Commonwealth to be elected as provided in § 2.1-64.28:2 subsection C;
5 the president, the president-elect, the vice-president and the secretary-treasurer of the Virginia Association of
6 Commonwealth's Attorneys, and the immediate past president of the Virginia Association of Commonwealth's Attorneys. The
7 president of the Association shall be the chairman of the Council; the president-elect and vice-president shall be first and
8 second vice-chairmen, respectively, and the secretary-treasurer shall serve as secretary of the Council.

9 C. The initial terms of the members elected from congressional districts shall be as follows: for the members from
10 the odd-numbered districts, until July 1 of the next following even-numbered year after their election; for the members from
11 the even-numbered districts, until July 1 of the next following odd-numbered year after the election; thereafter, all terms shall
12 be for two years.

13 The election for members shall be held annually at the annual meeting of the Virginia Association of
14 Commonwealth's Attorneys. One member shall be elected initially, and every two years thereafter, from each of the several
15 congressional districts by the membership of the Association at large. Each such member shall be an attorney for the
16 Commonwealth holding office within his congressional district.

17 The Council shall establish its own bylaws, procedures and requirements with respect to quorum, place and conduct
18 of its meetings and its other business matters, provided, that such bylaws shall include a provision that the Council hold no
19 less than ten meetings a year, and that other meetings be held when called by the chairman, or, in the absence of the
20 chairman, the first vice-chairman, or upon the written request of four members.

21 D. Upon the termination of the office of any member as attorney for the Commonwealth, his membership on the
22 Council shall be terminated. Vacancies shall be filled for the congressional district in which the former member resided for
23 the unexpired term by a majority vote of the Council. Members shall be eligible for more than one term.

24 E. The Council shall establish its own bylaws, procedures and requirements with respect to quorum, place and
25 conduct of its meetings and its other business matters, provided, that such bylaws shall include a provision that the Council
26 hold no less than ten meetings a year, and that other meetings be held when called by the chairman, or, in the absence of the
27 chairman, the first vice-chairman, or upon the written request of four members.

28 F. Members of the Council shall receive no salaries but shall be reimbursed their reasonable and necessary
29 traveling and subsistence expenses incurred in the performance discharge of their duties as provided in § 2.2-2825).

30 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
31 A, B, and E are § 2.1-64.28:1 and subsections C, D and F are § 2.1-64.28:2.

32 ~~§ 2.1-64.28:2. Terms and election of members.~~

33 ~~The initial terms of the members elected from congressional districts shall be as follows: for the members from the~~
34 ~~odd-numbered districts, until July 1 of the next following even-numbered year after their election; for the members from the~~
35 ~~even-numbered districts, until July 1 of the next following odd-numbered year after the election; thereafter, all terms shall be~~
36 ~~for two years.~~

37 ~~The election for members shall be held annually at the annual meeting of the Virginia Association of~~
38 ~~Commonwealth's Attorneys. One member shall be elected initially, and every two years thereafter, from each of the several~~
39 ~~congressional districts by the membership of the Association at large. Each such member shall be an attorney for the~~
40 ~~Commonwealth holding office within his congressional district.~~

41 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections C, D, and F in proposed § 2.2-2617
42 supra.

43 ~~§ 2.1-64.28:4 2.2-2618. Powers and duties of Council.~~

44 ~~The Council, in order to (i) strengthen the criminal justice system in the Commonwealth, to (ii) provide a professional~~
45 ~~organization for the education, training, service and coordination of technical efforts of state prosecutors; and to (iii) maintain~~
46 ~~and improve prosecutor efficiency and effectiveness in enforcing the law of the Commonwealth, shall have, but shall are not~~
47 ~~be limited to, the following powers and duties:~~

- 48 1. Organize, supervise and perform functions consistent with this chapter article;
- 49 2. Coordinate training and continuing legal education activities for attorneys for the Commonwealth;
- 50 3. Contract or enter into agreements with state or federal agencies or education institutions;
- 51 4. Gather and disseminate information to attorneys for the Commonwealth relative to their official duties, including
52 changes in the law affecting their office;
- 53 5. Coordinate with the Department of Criminal Justice Services and the Judicial Conference in reference to training
54 and interdisciplinary criminal justice matters;

- 1 6. Obtain statistical reports from attorneys for the Commonwealth relating to their performance, function and work-
2 load;
- 3 7. Receive and establish an equitable distribution plan for the allocation of any funds from public or private sources;
- 4 8. Maintain close contact with the office of the Attorney General and with all attorneys for the Commonwealth and
5 assistant attorneys for the Commonwealth in the discussion of problems or recommendations concerning necessary
6 research, minimum standards, educational needs and other matters relative to upgrading the professional status of attorneys
7 for the Commonwealth; and
- 8 9. Perform such other acts as may be necessary for the effective performance of its duties.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 2-1-64.28:3~~ 2.2-2619. Administrator.

11 The Council, with the concurrence of the Governor, shall appoint an administrator, who shall serve under the
12 supervision and at the pleasure of the Council. He shall perform ~~such the~~ duties and exercise ~~such the~~ functions ~~as the~~
13 Council ~~may assign~~ assigns to him, ~~and he shall serve under the supervision of the Council.~~ He shall receive a salary for his
14 services to be paid by the Council subject to the approval of the Governor.

15 **DRAFTING NOTE:** Technical corrections only.

16 Article 8.

17 Commonwealth Competition Council.

18 ~~§ 9-340. Short title.~~

19 ~~This chapter shall be known and may be cited as the "Virginia Government Competition Act of 1995."~~

20 **DRAFTING NOTE:** Technical correction. This section has been deleted as unnecessary and to conform with all other
21 articles in this Part D.

22 ~~§ 9-344~~ 2.2-2620. Definitions.

23 As used in this ~~chapter~~ article, unless the context ~~otherwise~~ requires a different meaning:

24 "Commercial activity" means performing services or providing goods ~~which that~~ can normally be obtained from
25 private enterprise.

26 "Commercial source" means any business or other concern that is eligible for a contract award in accordance with
27 the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

28 "Competitive process" means the process approved by the Council to determine the most cost-effective privatization
29 technique.

30 "Council" means the Commonwealth Competition Council.

31 "Fully allocated cost" means a cost ~~which that~~ includes all direct personnel costs, materials and supplies, equipment,
32 capital and equipment depreciation costs, rent, maintenance and repairs, utilities, insurance, travel, operations overhead, and
33 general administrative overhead as these terms are defined in the Council's "Compete" cost comparison program.

34 "Managed competition" means a competitive process between a state agency and the private sector in which (i) the
35 state agency submits its own proposal after completing the fully allocated cost of the commercial activity and (ii) the proposal
36 is based on its most efficient proposed organization to compete with a private sector bid or proposal for the provision of the
37 commercial activity.

38 "Privatization" means a variety of techniques and activities ~~which that~~ promote more involvement of the private
39 sector in providing services that have traditionally been provided by government. It also includes methods of providing a
40 portion or all of select government-provided or government-produced programs and services through the private sector.

41 "State agency" means any board, council, authority, department, agency, or institution of the Commonwealth ~~which~~
42 that employs state or nonstate personnel.

43 **DRAFTING NOTE:** Technical corrections only.

44 ~~§ 9-343~~ 2.2-2621. ~~Membership; appointment; Commonwealth Competition Council; membership; terms; vacancies;~~
45 ~~chairman; quorum; compensation; staff.~~

46 A. The Commonwealth Competition Council (the "Council") is established as an advisory council, within the meaning
47 of § 2.2-2100, in the executive branch of state government. The Council shall be composed of fifteen members to be
48 appointed as follows: four employees of executive branch agencies to be appointed by the Governor; two members of the
49 House of Delegates to be appointed by the Speaker of the House; two members of the Senate to be appointed by the Senate
50 Committee on Privileges and Elections; three members of the private sector to be appointed by the Governor; two members
51 of the private sector to be appointed by the Speaker of the House; and two members of the private sector, who shall be

1 private sector members of the Small Business Commission, to be appointed by the Senate Committee on Privileges
2 Elections.

3 B. Legislative members shall serve on the Council until the expiration of their terms of office or until their successors
4 shall qualify. Two of the members who are employees of executive branch agencies and one member from the private sector
5 appointed by the Governor shall be appointed for terms of one year. Two of the members who are employees of executive
6 branch agencies and two members from the private sector appointed by the Governor shall be appointed for terms of two
7 years. The nonlegislative members appointed by the Speaker of the House of Delegates and the Senate Committee on
8 Privileges and Elections shall be appointed for terms of three years. Thereafter all nonlegislative members of the Council shall
9 be appointed for terms of three years.

10 C. Appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to serve for or during
11 more than two successive three-year terms. Executive branch agency members shall serve only as long as they retain their
12 positions.

13 D. The Council shall annually elect its chairman and vice chairman from among its members. A majority of the
14 members of the Council shall constitute a quorum.

15 E. ~~Eight members of the Council shall constitute a quorum. No action shall be taken by the Council without the~~
16 ~~concurrence of at least eight members.~~

17 F. ~~Legislative members shall be compensated as specified in § 14.1-18.30-19.12, and all members of the Council~~
18 ~~shall be reimbursed for their actual reasonable and necessary expenses incurred in the performance discharge of their duties~~
19 ~~as provided in § 2.2-2825.~~

20 F. The Council shall employ such staff as necessary to enable it to perform its duties as directed in the appropriation
21 act.

22 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
23 A through E are § 9-343, and subsection F is subsection A from § 9-345.

24 ~~§ 9-342 2.2-2622. Commonwealth Competition Council created; duties~~ Duties of Council; acceptance of gifts and
25 grants; annual report.

26 ~~There is hereby created in the executive branch the Commonwealth Competition Council.~~ A. The Council shall:

27 1. Examine and promote methods of providing a portion or all of select government-provided or government
28 produced programs and services through the private sector by a competitive contracting program, and advise the Governor
29 the General Assembly, and executive branch agencies of the Council's findings and recommendations.

30 2. Develop an institutional framework for a statewide competitive program to encourage innovation and competition
31 within state government.

32 3. Establish a system to encourage the use of feasibility studies and innovation to determine where competition
33 could reduce government costs without harming the public.

34 4. Monitor the products and services of state agencies to bring an element of competition and to ensure a spirit of
35 innovation and entrepreneurship to compete with the private sector.

36 5. Advocate, develop and accelerate implementation of a competitive program for state entities to ensure
37 competition for the provision or production of government services, or both, from both public and private sector entities.

38 6. Establish approval, planning, and reporting processes required to carry out the functions of the Council.

39 7. Determine the privatization potential of a program or activity; perform cost/benefit analyses; and conduct public
40 and private performance analyses. The Secretary of Finance shall independently certify the results of the comparison.

41 8. Devise, in consultation with the Secretary of Finance, evaluation criteria to be used in conducting performance
42 reviews of any program or activity ~~which~~ that is subject to a privatization recommendation.

43 9. To the extent practicable and to the extent that resources are available, make its services available for a fair
44 compensation to any political subdivision of the Commonwealth.

45 10. Review the practices of government agencies and nonprofit organizations ~~which~~ that may constitute
46 inappropriate competition with private enterprise. The Council shall develop proposals for (i) preserving the traditional role of
47 private enterprise; (ii) encouraging the expansion of existing, and the creation of new, private enterprise; and (iii) monitoring
48 inappropriate competition by nonprofit organizations.

49 B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable
50 it to better carry out its objectives. No entity that provides a gift, donation or grant shall be eligible for a contract award that
51 results from action of a Council recommendation.

52 C. The Council shall not impose unreasonable burdens or costs in connection with requests of agencies.

53 D. The Council shall annually by December 1 report its findings and recommendations to the Governor, the General
54 Assembly and the Small Business Commission created pursuant to § 30-182. The Council may make interim reports to
55 Governor, the General Assembly and the Small Business Commission as it deems advisable.

1 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
2 A is § 9-342, subsections B and C are subsection B of § 9-345, and subsection D is § 9-349.

3 ~~§ 9-344. Cooperation of other state agencies.~~

4 ~~All agencies of the Commonwealth shall cooperate with the Council and, upon request, assist the Council in the~~
5 ~~performance of its duties and responsibilities. The Council shall not impose unreasonable burdens or costs in connection with~~
6 ~~requests of agencies.~~

7 **DRAFTING NOTE:** Technical corrections. The first sentence in this section was consolidated with other like sections and
8 now appears in Chapter 21, General provisions, at the beginning of this Part D as § 2.2-2103. The last sentence now
9 appears as subsection C in proposed in § 2.2-2622.

10 ~~§ 9-345. Staff support; application for an acceptance of gifts and grants.~~

11 ~~A. The Council shall employ such staff as necessary to enable it to perform its duties as directed in the appropriation~~
12 ~~act.~~

13 ~~B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable~~
14 ~~it to better carry out its objectives. No entity which provides a gift, donation or grant shall be eligible for a contract award~~
15 ~~which results from action of a Council recommendation.~~

16 **DRAFTING NOTE:** Technical corrections. Subsection A of this section now appears in proposed § 2.2-2621 as subsection
17 F, and subsection B now appears as subsection B in proposed § 2.2-2622 supra.

18 ~~§ 9-346~~ 2.2-2623. Unsolicited proposals.

19 The Governor or the General Assembly may direct any state agency to perform a public/private performance
20 analysis covering any commercial activity for which the Council has received a qualifying unsolicited proposal from a private
21 entity ~~which that~~ is consistent with the Council's purposes and duties as provided in ~~§ 9-342~~ 2.2-2622.

22 The provisions of this section shall not apply to transportation-related projects initiated pursuant to Chapter 22 (§ 56-
23 556 et seq.) of Title 56.

24 **DRAFTING NOTE:** Technical corrections only.

25 ~~§ 9-347~~ 2.2-2624. Public/private performance analysis.

26 A. The Council shall use the procurement methods cited in the Virginia Public Procurement Act (~~§ 41-35~~ 2.2-4300 et
27 seq.) to solicit proposals and bids from private entities in order to make cost comparison decisions. However, the Council
28 shall not execute contracts.

29 B. The Council shall explore methods to encourage state agencies to compete for contracts.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 9-348~~ 2.2-2625. Duties of the Department of Planning and Budget.

32 The Department of Planning and Budget shall determine the amount of the existing appropriation no longer needed
33 ~~by the a~~ state agency or institution where all or a portion of such agency's function has been privatized in accordance with the
34 recommendations of the Council, and shall unallot such funding. The Department shall also ensure that all appropriate
35 reporting requirements to the Governor and the General Assembly are met. Nothing in this section shall preclude the
36 Governor from recommending in future budget submissions the restoration of a portion of the original appropriation to the
37 state agency or institution.

38 **DRAFTING NOTE:** Technical corrections only.

39 ~~§ 9-349. Reports to Governor, General Assembly and Small Business Commission.~~

40 ~~The Council shall annually by December 1 report its findings and recommendations to the Governor, the General~~
41 ~~Assembly and the Small Business Commission created pursuant to § 9-336. The Council may make interim reports to the~~
42 ~~Governor, the General Assembly and the Small Business Commission as it deems advisable.~~

43 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 2.2-2622 supra.

44 Article 9.

45 Commonwealth Council On Aging.

46 ~~§ 2-1-373.02~~ 2.2-2626. Commonwealth Council on Aging; created; purpose; membership; terms; duties.

47 A. ~~There is hereby created in the executive branch the Commonwealth Council on Aging, hereinafter referred to as~~
48 ~~the Council. The Commonwealth Council on Aging (the "Council") is established as an advisory council, within the meaning of~~
49 § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to promote an efficient,

1 | coordinated approach by state government to meeting the needs of older Virginians. ~~The Council shall be composed of~~
2 | ~~persons selected from the Commonwealth at large without regard to political affiliation but with due consideration of~~
3 | ~~geographical representation. Appointees shall be selected for their ability, and all appointments shall be of such nature as to~~
4 | ~~aid the work of the Council and to inspire the highest degree of cooperation and confidence.~~

5 | B. The Council shall consist of nineteen voting members appointed as follows: one member from each of the eleven
6 | congressional districts of the Commonwealth appointed by the Governor subject to confirmation by ~~a majority of each House~~
7 | ~~of the General Assembly at its next regular session~~; four at-large members appointed by the Speaker of the House of
8 | Delegates; and four at-large members appointed by the Senate Committee on Privileges and Elections. The Council shall
9 | also include the following nonvoting, ex officio members: the Commissioner of the Department for the Aging, the Director of
10 | the Department of Medical Assistance Services, the Commissioner of Social Services and the Secretary of Health and
11 | Human Resources, or their designees. The Council shall be composed of persons selected from the Commonwealth at large
12 | without regard to political affiliation but with due consideration of geographical representation. Appointees shall be selected
13 | for their ability, and all appointments shall be of such nature as to aid the work of the Council and to inspire the highest
14 | degree of cooperation and confidence.

15 | C. For initial appointments made by the Governor, the terms shall be as follows: five members shall serve four-year
16 | terms, four members shall serve three-year terms and two members shall serve two-year terms. For initial appointments
17 | made by the Speaker of the House of Delegates, two members shall be appointed for four-year terms and two members shall
18 | be appointed to two-year terms. For the initial appointments by the Senate Committee on Privileges and Elections, two
19 | members shall be appointed for four-year terms and two members shall be appointed for two-year terms. Thereafter, all
20 | appointments shall be for four-year terms.

21 | In making initial appointments, the Governor, the Speaker of the House, and the Senate Committee on Privileges
22 | and Elections shall give due consideration to the appointment of members of the current Governor's Advisory Board on Aging.

23 | Appointments to fill vacancies shall be for the unexpired term. No person having served on the Council for two
24 | consecutive terms shall be eligible for reappointment to the Council for two years thereafter.

25 | ~~C-D.~~ The Council shall elect a chairman and a vice-chairman from among its members and shall appoint a secretary
26 | and such other officers as it deems necessary and prescribe their duties and terms of office.

27 | ~~D. The duties of the Council shall be as follows:~~

28 | ~~1. Examine the needs of older Virginians and ways in which state government can most effectively and efficiently~~
29 | ~~assist in meeting those needs;~~

30 | ~~2. Advise the Governor and General Assembly on aging issues and aging policy for the Commonwealth;~~

31 | ~~3. Advise the Governor on any proposed regulations deemed by the Director of the Department of Planning and~~
32 | ~~Budget to have a substantial and distinct impact on older Virginians. Such advice shall be provided in addition to other~~
33 | ~~regulatory reviews required by the Administrative Process Act;~~

34 | ~~4. Advocate and develop the Commonwealth's planning for meeting the needs of the growing number of older~~
35 | ~~Virginians; and~~

36 | ~~5. Advise the Governor and General Assembly regarding the activities of the Department.~~

37 | ~~E. The Council is authorized to apply for and expend such grants, gifts, or bequests from any source as may~~
38 | ~~become available in connection with its duties under this section, and is authorized to comply with such conditions and~~
39 | ~~requirements as may be imposed in connection therewith.~~

40 | **DRAFTING NOTE:** Technical corrections. Subsection D now appears as proposed § 2.2-2627, Duties of the Council, infra.

41 | § 2.2-2627. Duties of the Council.

42 | The Council shall have the following duties:

43 | 1. Examine the needs of older Virginians and ways in which state government can most effectively and efficiently
44 | assist in meeting those needs;

45 | 2. Advise the Governor and General Assembly on aging issues and aging policy for the Commonwealth;

46 | 3. Advise the Governor on any proposed regulations deemed by the Director of the Department of Planning and
47 | Budget to have a substantial and distinct impact on older Virginians. Such advice shall be provided in addition to other
48 | regulatory reviews required by the Administrative Process Act (§ 2.2-4000 et seq.);

49 | 4. Advocate and develop the Commonwealth's planning for meeting the needs of the growing number of older
50 | Virginians;

51 | 5. Advise the Governor and General Assembly regarding the activities of the Department for the Aging; and

52 | 6. Assist and advise the Department with the development and ongoing review of the Virginia Respite Care Grant
53 | Program pursuant to Article 3 (§ 2.2-714 et seq.) of Chapter 7 of this title.

2 E. The Council may apply for and expend such grants, gifts, or bequests from any source as may become available
3 in connection with its duties under this section, and may comply with such conditions and requirements as may be imposed in
4 connection therewith.

5 F. For the purposes of this section, "older Virginians" means persons aged sixty years and older.

6 **DRAFTING NOTE:** Technical corrections. This proposed section comes from subsection D from existing § 2.1-373.02.
7 Subsection F was added to clarify the term "older Virginian", which is defined in Chapter 7, Department for the Aging, in Part
8 C of Subtitle I.

9 Article 10.

10 Council On Indians.

11 ~~§ 9-138.1 2.2-2628. Appointment and terms of members Council on Indians; membership; terms; chairman.~~

12 ~~The Council on Indians is continued.~~ A. The Council on Indians (the "Council") is established as an advisory council,
13 within the meaning of § 2.2-2100, in the executive branch of state government. The Council shall be composed of thirteen
14 members to be appointed by the Governor as follows: (i) the eight Virginia tribes officially recognized by the Commonwealth
15 shall be entitled but not required to be represented by one member from each tribe, (ii) two members at-large from the Indian
16 population residing in Virginia, and (iii) one member from the Commonwealth at large, all of whom shall be appointed by the
17 Governor; and (iii) (iv) one member from the House of Delegates of Virginia appointed by the Speaker of the House of
18 Delegates, (iv) and (v) one member from the Senate of Virginia appointed by the Senate Committee on Privileges and
19 Elections, and (v) one member from the Commonwealth at large. If a recognized tribe elects not to be represented, then that
20 seat on the Council shall be filled by appointment of an additional member from the at-large Indian population of Virginia. The
21 Secretary of Health and Human Resources shall be an ex officio member of the Council.

22 ~~B. The present members of the Council shall continue to serve for the terms to which they have been appointed. The~~
23 ~~initial terms of the new members appointed from those tribes not represented on the Council as of January 1, 1989, shall~~
24 ~~expire June 30, 1993. Subsequent After the original appointments, all appointments shall be for terms of three years except~~
25 ~~appointments to fill vacancies, which shall be for the unexpired terms. No member shall be eligible to serve more than two~~
26 ~~terms in succession, provided that appointments to terms commencing prior to July 1, 1988, shall not be considered in~~
27 ~~determining such limit, nor shall appointments to fill vacancies for an unexpired term be included.~~

28 C. ~~The Governor shall appoint one of the members appointed pursuant to (i) or (ii) of this section-subsection A as~~
29 ~~Chairman~~ chairman, who shall serve in such position at the pleasure of the Governor.

30 ~~No member shall be eligible to serve more than two terms in succession, provided that appointments to terms~~
31 ~~commencing prior to July 1, 1989, shall not be considered in determining such limit, nor shall appointments to fill vacancies~~
32 ~~for an unexpired term be included.~~

33 D. ~~Members of the Council shall receive no compensation for their services, but shall receive their ordinary and~~
34 ~~necessary travel expenses to Council meetings be reimbursed for all reasonable and necessary expenses incurred in the~~
35 ~~discharge of their duties as provided in § 2.2-2825 (§ 2.1-20.10).~~

36 **DRAFTING NOTE:** Technical corrections only.

37 ~~§ 9-138.2 2.2-2629. Powers and duties; cooperation of state agencies of Council; acceptance of gifts and grants;~~
38 ~~reporting requirement.~~

39 A. The Council shall gather information on and make studies and conduct research into the Indian tribes in this the
40 Commonwealth and suggest ways in which Indians may reach their potential and make their full contribution, as wage
41 earners and citizens, to society and this the Commonwealth.

42 B. The Council may apply for, accept and expend gifts, grants or donations from public or private sources to enable
43 it to better carry out its objectives.

44 C. The Council shall report its findings and recommendations to the Governor and the General Assembly not less
45 than sixty days prior to the convening of the session of the General Assembly held in each even-numbered year.

46 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
47 A is § 9-138.2, subsection B is § 9-138.3 and subsection C is § 9-138.4.

48 ~~§ 9-138.3. Application for and acceptance of gifts and grants.~~

49 ~~The Council is authorized to apply for, accept and expend gifts, grants or donations from public or private sources to~~
50 ~~enable it to better carry out its objectives.~~

51 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2629 supra.

52 ~~§ 9-138.4. Reports to Governor and General Assembly.~~

1 The Council shall report its findings and recommendations to the Governor and the General Assembly not less than
2 sixty days prior to the convening of the session of the General Assembly held in each even numbered year.

3 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2629 supra.

4 Article 11.

5 Council On The Status Of Women.

6 ~~§-0-116 2.2-2630. Commission continued as Council on the Status of Women; purpose; appointment and~~
7 ~~membership; terms of members; chairman.~~

8 ~~The Commission on the Status of Women is continued and shall hereafter be known as the Council on the Status of~~
9 ~~Women, whose purpose-~~ A. The Council on the Status of Women (the "Council") is established as an advisory council, within
10 the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to identify ways
11 in which women can reach their potential and make their full contribution to society and this Commonwealth as wage earners
12 and citizens.

13 B. The Council shall be composed—consist of nineteen members, to be appointed by the Governor from the
14 Commonwealth at large. Appointments shall be for terms of three years, except appointments to fill vacancies, which shall be
15 for the unexpired terms. A majority of the membership of the Council shall constitute a quorum.

16 C. The Governor shall appoint the chairman of the Council. Appointments shall be for terms of three years except
17 appointments to fill vacancies, which shall be for the unexpired terms.

18 **DRAFTING NOTE:** Technical corrections. The last sentence of subsection B was added to clarify the quorum requirements
19 for the Council.

20 ~~§-0-116.4 2.2-2631. Powers and duties of Council.~~

21 The Council shall have the following powers and duties to :

22 ~~To determine-~~ 1. Determine the studies and research to be conducted by the Council;

23 ~~To collect-~~ 2. Collect and disseminate information regarding the status of women in ~~this the~~ Commonwealth and the
24 nation;

25 ~~To advise-~~ 3. Advise the Governor, General Assembly and Secretary of Health and Human Resources on matters
26 pertaining to women in ~~this the~~ Commonwealth and the nation;

27 ~~To establish-~~ 4. Establish and award scholarships pursuant to regulations and conditions prescribed by the Council;
28 and

29 ~~To review-~~ 5. Review and comment on all budgets, appropriation requests and grant applications concerning the
30 Council, prior to their submission to the Secretary of Health and Human Resources or the Governor.

31 **DRAFTING NOTE:** Technical corrections only.

32 Article 12.

33 Human Rights Council.

34 ~~§-2-1-718 2.2-2632. Human Rights Council created; Chairperson membership; terms; quorum; and compensation.~~

35 ~~A. There is hereby created in the Office of the Governor the Council on Human Rights, hereafter referred to as the~~
36 ~~Council.~~ The Human Rights Council (the "Council") is established as a policy council, within the meaning of § 2.2-2100, in the
37 executive branch of state government. The Council shall consist of nine members, who shall be appointed by the Governor,
38 subject to confirmation by the General Assembly as provided in § 2.1-41.2. The members appointed by the Governor shall,
39 insofar as possible, be diverse with respect to economic status, race, sex, color, ethnicity, age, disabilities, political affiliation
40 and marital status.

41 ~~B. The Governor shall designate one of the members of the Council to be Chairperson. The Chairperson shall~~
42 ~~preside at all the meetings of the Council and perform all the duties and functions of the Chairperson. The Council by majority~~
43 ~~vote shall elect one of its members as Vice Chairperson who, in the absence of the Chairperson, shall perform all the duties~~
44 ~~and functions of the Chairperson.~~

45 ~~C.~~ G. Of the members first appointed, four shall be appointed to two-year terms, and five shall be appointed to four-year
46 terms. Thereafter members shall be appointed to four-year terms, except members appointed to fill vacancies shall be
47 appointed for the remainder of the unexpired term.

48 ~~D.~~ D. In the case of vacancies on the Council during a recess of the General Assembly, the Governor shall make an
49 appointment to fill the vacancy, and the appointee shall hold office until thirty days after the commencement of the next
50 session of the General Assembly and, if confirmed by the General Assembly, for the remainder of the unexpired term.

1 C. The Governor shall designate one of the members of the Council to be chairperson. The chairperson shall preside
2 at all the meetings of the Council. The Council by majority vote shall elect one of its members as vice-chairperson who, in the
3 absence of the chairperson, shall perform all the duties and functions of the chairperson.

4 E.D. A simple majority of the members serving on the Council shall constitute a quorum. No power pursuant to §
5 2-1-720- 2.2-2634 may be exercised by the Council unless agreed to by a majority of the nine members of the Council
6 appointed. Vacancies in the Council shall not impair the authority of remaining members to exercise all the powers of the
7 Council.

8 F.E. Members of the Council shall be reimbursed for actual expenses incurred by them in the performance of their
9 duties and shall receive compensation of fifty dollars for each day or part of day of service in an official capacity, pursuant to §
10 2-1-20-3 receive compensation for the discharge of their duties as provided in § 2.2-2813.

11 **DRAFTING NOTE:** Technical corrections only.

12 §-2-1-740 2.2-2633. Human Rights Director.

13 A. There is established under the Council the position of Human Rights Director, ~~hereafter referred to as the Director~~
14 (the "Director"). The Director shall be appointed by and serve at the pleasure of the Governor.

15 B. The Director ~~shall have authority may~~, within guidelines established by the Council ~~to~~:

16 1. Accept and investigate complaints of alleged unlawful discriminatory practices or alleged unfounded charges of
17 unlawful discrimination filed in writing within 180 days of the alleged discriminatory events;

18 2. Attempt to conciliate any complaint of unlawful discrimination under this ~~chapter~~ article;

19 3. In the event conciliation fails, recommend to the Council that a hearing be held or other appropriate action be
20 taken;

21 4. Carry out the policies of the Council and any other duty assigned by this ~~chapter~~ article.

22 **DRAFTING NOTE:** Technical corrections only.

23 §-2-1-720 2.2-2634. Powers and duties of Council.

24 In addition to the other powers and duties prescribed in this ~~chapter~~ article, the Council ~~has~~ shall have the following
25 powers to:

26 1. ~~To meet~~ Meet and function at any place in the Commonwealth;

27 2. ~~To establish~~ Establish and maintain an office;

28 3. ~~To select~~ Select, and fix the compensation of, such technical advisors and employees as it ~~may deem~~ deems
29 necessary, or to authorize such action by the Director. The Attorney General shall represent the Council in all litigation to
30 which the Council is a party;

31 4. ~~To appoint~~ Appoint and compensate qualified hearing officers from the list of hearing officers maintained by the
32 Executive Secretary of the Supreme Court of Virginia;

33 5. ~~To promote~~ Promote creation of local commissions to aid in effectuating the policies of this ~~chapter~~ article and to
34 enter into cooperative worksharing or other agreements with federal agencies or local commissions, including the deferral of
35 complaints of discrimination to federal agencies or local commissions;

36 6. ~~To adopt~~ Adopt, promulgate, amend and rescind regulations consistent with this ~~chapter~~ article pursuant to the
37 Virginia Administrative Process Act (~~§ 9-6-14-4- 2.2-4000~~ et seq.). No such regulation shall be inconsistent with any state or
38 federal law or regulation. However, the Council shall not have the authority to ~~promulgate~~ adopt regulations on a substantive
39 matter when another state agency is authorized to adopt such regulations;

40 7. ~~To receive~~ Receive, investigate, seek to conciliate, refer to another agency, hold hearings pursuant to the Virginia
41 Administrative Process Act (§ 2.2-4000 et seq.), and make findings and recommendations upon complaints alleging unlawful
42 discriminatory practices;

43 8. ~~To make~~ Make studies and appoint advisory councils to effectuate the purposes and policies of the ~~chapter~~ article
44 and to make the results thereof available to the public;

45 9. ~~To accept~~ Accept public grants or private gifts, bequests, or other payments, as appropriate;

46 10. ~~To render~~ Render at least annually a comprehensive written report to the Governor and to the General
47 Assembly;

48 11. ~~To furnish~~ Furnish technical assistance upon request of persons subject to this ~~chapter~~ article to further comply
49 with the ~~chapter~~ article or an order issued thereunder;

50 12. ~~To inquire~~ Inquire into incidents ~~which that~~ may constitute unlawful acts of discrimination or unfounded charges
51 of unlawful discrimination under state or federal law, and to take such action within the Council's authority ~~as may be~~
52 designed to prevent such acts;

53 13. ~~To create~~ Create an official seal that shall be judicially noticed;

1 | 14. ~~With Seek, with~~ the approval of the Attorney General, ~~to seek,~~ through appropriate enforcement authorities,
2 | prevention of or relief from an alleged unlawful discriminatory practice; however, the Council itself shall have no power to
3 | issue subpoenas, award damages, or grant injunctive relief.

4 | **DRAFTING NOTE:** Technical corrections only.

5 | ~~§ 2-1-724 2.2-2635.~~ Procedure for issuance of subpoena duces tecum.

6 | Whenever the Council has reasonable cause to believe that any person has engaged in or is engaging in any
7 | unlawful discriminatory practice, and the Council, after a good faith effort to obtain the date and information necessary to
8 | determine whether a violation has occurred, has been unable to obtain such information, it may request the Attorney General
9 | to apply to the judge of the circuit court of the jurisdiction in which the respondent resides or is doing business for a subpoena
10 | duces tecum against any person refusing to produce such data and information. The judge of the court, upon good cause
11 | shown, may cause the subpoena to be issued. Any person failing to comply with such subpoena shall be subject to
12 | punishment for contempt by the court issuing the subpoena. For purposes of this section "person" includes any individual,
13 | partnership, corporation, association, legal representative, mutual company, joint stock company, trust, unincorporated
14 | organization, employee, employer, employment agency, labor organization, joint labor-management committee, or an agent
15 | thereof.

16 | **DRAFTING NOTE:** Technical corrections only.

17 | ~~§ 2-1-722 2.2-2636.~~ Filing with Council deemed filing with other state agencies.

18 | Filing of a written complaint with the Council shall be deemed filing with any state agency for the purpose of
19 | complying with any time limitation on the filing of a complaint, provided the time ~~limits~~ limit for filing with the other agency has
20 | not expired. The time limit for filing with other agencies ~~will~~ shall be tolled while the Council is either investigating the
21 | complaint or making a decision to refer it. Complaints under this ~~chapter~~ article shall be filed with the Council within 180 days
22 | of the alleged discriminatory event.

23 | **DRAFTING NOTE:** Technical corrections only.

24 | ~~§ 2-1-723 2.2-2637.~~ Confidentiality of information; penalty.

25 | A. It shall be unlawful for any officer, employee or member of the Council to make public, prior to a public hearing
26 | pursuant to ~~§ 2-1-720 2.2-2634,~~ investigative notes and other correspondence and information furnished to the Council in
27 | confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice;
28 | however,

29 | ~~B. nothing~~ Nothing in this section, however, shall prohibit the distribution of information taken from inactive reports in
30 | a form ~~which~~ that does not reveal the identity of the parties involved or other persons supplying information.

31 | A-C. Any person convicted of a violation of this section shall be guilty of a Class 3 misdemeanor.

32 | **DRAFTING NOTE:** Technical corrections only.

33 | ~~§ 2-1-724 2.2-2638.~~ Powers of local commissions.

34 | A local human rights or human relations commission established prior to the effective date of this ~~chapter~~ article, in
35 | addition to the powers granted under this ~~chapter~~ article, may exercise any such additional powers as may have been granted
36 | heretofore to that commission pursuant to applicable provisions of §§ 15.2-725, 15.2-853, and 15.2-854 or municipal charter
37 | provisions.

38 | **DRAFTING NOTE:** Technical corrections only.

39 | ~~§ 2-1-725 2.2-2639.~~ Causes of action not created.

40 | A. Nothing in this ~~chapter~~ article creates, nor shall it be construed to create, an independent or private cause of
41 | action to enforce its provisions, except as specifically provided in subsections B and C ~~of this section.~~

42 | B. No employer employing more than five but less than fifteen persons shall discharge any such employee on the
43 | basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, or of age if the employee
44 | is forty years or older.

45 | C. The employee may bring an action in a general district or circuit court having jurisdiction over the employer who
46 | allegedly discharged the employee in violation of this section. Any such action shall be brought within 180 days from the date
47 | of the discharge. The court may award up to twelve months' back pay with interest at the judgment rate as provided in § 6.1-
48 | 330.54. However, if the court finds that either party engaged in tactics to delay resolution of the complaint, it may (i) diminish
49 | the award or (ii) award back pay to the date of judgment without regard to the twelve-month limitation.

50 | In any case where the employee prevails, the court shall award attorney's fees from the amount recovered, not to
51 | exceed twenty-five percent of the back pay awarded. The court shall not award other damages, compensatory or punitive, nor
52 | shall it order reinstatement of the employee.

2 D. Causes of action based upon the public policies reflected in this ~~chapter~~ article shall be exclusively limited to
3 those actions, procedures and remedies, if any, afforded by applicable federal or state civil rights statutes or local ordinances.
4 Nothing in this section or § ~~2-1-745- 2.2-3900~~ shall be deemed to alter, supersede, or otherwise modify the authority of the
5 Council ~~on Human Rights~~ or of any local human rights or human relations commissions established pursuant to §§ 15.2-965
or 15.2-853 or subject to the provisions of § ~~2-1-724 2.2-2638~~.

6 **DRAFTING NOTE:** Technical corrections only.

7 Article 13.

8 Interagency Coordinating Council On Housing For The Disabled.

9 ~~§ 2-1-703-1 2.2-2640.~~ Interagency Coordinating Council on Housing for the Disabled; membership; chairman.

10 ~~There shall be an Interagency Coordinating Council on Housing for the Disabled, hereinafter referred to as "Council."~~

11 A. The Interagency Coordinating Council on Housing for the Disabled (the "Council") is established as an advisory council,
12 within the meaning of § 2.2-2100, in the executive branch of state government. The Council shall consist of one
13 representative, to be appointed by the agency executive, from each of the following: Department of Professional and
14 Occupational Regulation, Department of Housing and Community Development, Virginia Housing Development Authority,
15 Department for Rights of Virginians With Disabilities, Department for the Aging, Department for the Deaf and Hard-of-Hearing,
16 Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative Services,
17 Department of Social Services and Department for the ~~Visually Handicapped~~ Blind and Vision Impaired. The Secretary of
18 Commerce and Trade and Secretary of Health and Human Resources shall serve ex officio on the Council. The appropriate
19 agency executive may appoint additional members as required.

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

22 ~~The Council shall provide and promote cross secretariat interagency leadership for comprehensive planning and~~
23 ~~coordinated implementation of proposals to increase and maximize use of existing low income housing for the disabled and to~~
24 ~~ensure development of accompanying community support services. The Council shall stimulate action by government~~
25 ~~agencies and enlist the cooperation of the nonprofit and private sectors. The Council shall develop a state policy on housing~~
26 ~~for the disabled for submission to the Governor. The policy shall be reviewed and updated as necessary. The Council shall~~
27 ~~submit to the Governor and various agency executives a report and recommendations at least annually.~~

28 **DRAFTING NOTE:** Technical corrections. The second paragraph deleted above now appears as proposed § 2.2-2641,
29 Powers of the Council, infra.

30 § 2.2-2641. Powers of the Council; annual report.

31 A. The Council shall:

32 1. Provide and promote cross-secretariat interagency leadership for comprehensive planning and coordinated
33 implementation of proposals to increase and maximize use of existing low-income housing for the disabled and to ensure
34 development of accompanying community support services;

35 2. Stimulate action by government agencies and enlist the cooperation of the nonprofit and private sectors; and

36 3. Develop a state policy on housing for the disabled for submission to the Governor. The policy shall be reviewed
37 and updated as necessary.

38 B. The Council shall submit to the Governor and various agency executives a report and recommendations at least
39 annually.

40 **DRAFTING NOTE:** Technical corrections. This proposed section moved from the second paragraph in existing § 2.1-703.1.
41 supra.

42 Article 15.

43 Maternal And Child Health Council.

44 ~~§ 9-317 2.2-2642.~~ Maternal and Child Health Council; purpose; membership; terms; meetings.

45 A. The Maternal and Child Health Council (the "Council") is established as an advisory council, within the meaning of
46 § 2.2-2100, in the executive branch of state government. The ~~Virginia Maternal and Child Health~~ purpose of the Council is
47 heroby created shall be to improve the health of the Commonwealth's mothers and children by promoting and improving
48 programs and service delivery systems related to maternal and child health.

49 B. The Council shall be chaired by the Secretary of Health and Human Resources. The Commissioner of the
50 Department of Health, the Director of the Department of Medical Assistance Services, the Commissioner of the Department of
Social Services, the Superintendent of Public Instruction and the Commissioner of the Department of Mental Health, Mental
Retardation and Substance Abuse Services shall be members of the Council by virtue of their positions.

1 The Governor shall appoint as members: five representatives of the health professions with expertise in materna'
2 child health, two representatives of private nonprofit organizations involved in the promotion of maternal and child health, a
3 representative of private industry, one representative of the religious community, one local public official, and one
4 representative of a hospital involved in maternal and child health care. Interested organizations may submit nominations for
5 membership to the Governor. Members appointed by the Governor shall represent the various geographical areas of the
6 Commonwealth. Initial appointments by the Governor shall be for terms as follows: three members for two years; four
7 members for three years; and four members for four years. Thereafter, all appointments shall be for four-year terms. Members
8 appointed by the Governor shall not be eligible to serve more than two consecutive full terms.

9 One member shall be appointed by the Speaker of the House of Delegates from the membership thereof, and one
10 member shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate.
11 Legislative members shall be appointed for four-year terms and shall not be eligible to serve more than two consecutive full
12 terms. If a legislative member fails to retain his membership in the house from which he was appointed, he shall relinquish
13 his membership on the Council, and the appointing authority who appointed the member shall make an appointment from the
14 respective house to complete the term.

15 C. The Council shall meet at least four times in every fiscal year.

16 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: -subsection
17 A is § 9-317, subsection B is § 9-318, and subsection C is part of § 9-319.

18 ~~§ 9-318. Membership.~~

19 ~~The Council shall be chaired by the Secretary of Health and Human Resources. The Commissioner of the~~
20 ~~Department of Health, the Director of the Department of Medical Assistance Services, the Commissioner of the Department of~~
21 ~~Social Services, the Superintendent of Public Instruction and the Commissioner of the Department of Mental Health, Mental~~
22 ~~Retardation and Substance Abuse Services shall be members of the Council by virtue of their positions.~~

23 ~~The Governor shall appoint as members: five representatives of the health professions with expertise in maternal or~~
24 ~~child health, two representatives of private nonprofit organizations involved in the promotion of maternal and child health, one~~
25 ~~representative of private industry, one representative of the religious community, one local public official, and one~~
26 ~~representative of a hospital involved in maternal and child health care. Interested organizations may submit nominations for~~
27 ~~membership to the Governor. Members appointed by the Governor shall represent the various geographical areas of the~~
28 ~~Commonwealth. Initial appointments by the Governor shall be for terms as follows: three members for two years; fo~~
29 ~~members for three years; and four members for four years. Thereafter, all appointments shall be for four year terms. Mem~~
30 ~~appointed by the Governor shall not be eligible to serve more than two consecutive full terms.~~

31 ~~One member shall be appointed by the Speaker of the House of Delegates from the membership thereof, and one~~
32 ~~member shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate.~~
33 ~~Legislative members shall be appointed for four-year terms and shall not be eligible to serve more than two consecutive full~~
34 ~~terms. If a legislative member fails to retain his membership in the house from which he was appointed, he shall relinquish~~
35 ~~his membership on the Council, and the appointing authority who appointed the member shall make an appointment from the~~
36 ~~respective house to complete the term.~~

37 **DRAFTING NOTE:** Technical correction. This section now appears as subsection B in proposed § 2.2-2642 supra.

38 ~~§ 9-319 2.2-2643. Meetings; powers-Powers and duties of the Council; appointment of subcommittees.~~

39 A. ~~The Council shall meet at least four times in every fiscal year and shall:~~

- 40 1. ~~Examine trends and causes of maternal and child morbidity and mortality;~~
- 41 2. ~~Review and evaluate the Commonwealth's maternal and child health programs and services;~~
- 42 3. ~~Identify maternal and child health problems and issues including fragmentation and gaps in services and~~
43 ~~programs;~~
- 44 4. ~~Develop policies, principles and priorities which that guide programs and services for mothers and children in the~~
45 ~~Commonwealth;~~
- 46 5. ~~Advise and report to the Governor and General Assembly annually regarding potential program and policy~~
47 ~~initiatives in maternal and child health;~~
- 48 6. ~~Promote public-private partnerships or systems of care and coordination of agency efforts in the area of maternal~~
49 ~~and child health;~~
- 50 7. ~~Review and disseminate information on maternal and child health issues and developments; and~~
- 51 8. ~~Select and guide ad hoc professional and technical advisors or committees to address particular issues and~~
52 ~~prepare periodic reports for the Council.~~

53 B. ~~The Council may appoint subcommittees to assist it in its work, including a subcommittee on infant mortality and a~~
54 ~~subcommittee on perinatal services.~~

1 **DRAFTING NOTE:** Technical corrections. The meetings provision of this section now appears as subsection C in proposed §
2 2.2-2642 supra.

3 Article 15.

4 Specialized Transportation Council.

5 § 9-320 2.2-2644. Specialized Transportation Council; purpose; membership; staff; disabled defined.

6 ~~The Specialized Transportation Council is hereby created.~~ A. The Specialized Transportation Council (the "Council")
7 is established as a policy council, within the meaning of § 2.2-2100, in the executive branch of state government. The
8 purpose of the Council shall be to support the development of safe, cost-effective, coordinated, and specialized transportation
9 services for elderly Virginians and disabled Virginians. For the purposes of this chapter, "disabled" means persons who are
10 unable to use fixed-route public transportation because of a physical or mental disability.

11 B. The Secretary of Health and Human Resources and the Chairman of the Disability Commission shall serve as co-
12 chairmen of the Council and the Secretary of Transportation shall serve as vice-chairman. The Governor shall appoint eight
13 members, including a representative of a large urban public transportation provider, a small urban public transportation
14 provider, and a rural transportation provider; three consumers; and two at-large members. Members of the Council shall
15 represent the various geographical areas of the Commonwealth.

16 C. Initial appointments by the Governor shall be for terms as follows: two members for two years; three members for
17 three years; and three members for four years. Thereafter, all appointments shall be for four-year terms. Members of the
18 Council shall not be eligible to serve more than two consecutive full terms. The Secretaries of Health and Human Resources
19 and Transportation shall serve terms coincident with their terms of office.

20 D. Staff to the Council shall be provided by the Disability Commission and assisted, as requested, by appropriate
21 agencies within the two Secretariats.

22 E. For the purposes of this article, "disabled" means persons who are unable to use fixed-route public transportation
23 because of a physical or mental disability.

24 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
25 A and E are § 9-320, and subsection B through D are § 9-321.

26 ~~§ 9-321. Membership.~~

27 ~~The Secretary of Health and Human Resources shall serve as the chairman of the Council and the Secretary of~~
28 ~~Transportation shall serve as vice chairman. The Governor shall appoint eight members, including a representative of a large~~
29 ~~urban public transportation provider, a small urban public transportation provider, and a rural transportation provider; three~~
30 ~~consumers; and two at-large members. Members appointed by the Governor shall represent the various geographical areas~~
31 ~~of the Commonwealth. Initial appointments by the Governor shall be for terms as follows: two members for two years; three~~
32 ~~members for three years; and three members for four years. Thereafter, all appointments shall be for four-year terms.~~
33 ~~Members appointed by the Governor shall not be eligible to serve more than two consecutive full terms. Staff shall be~~
34 ~~provided by the Office of the Secretary of Health and Human Resources.~~

35 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B through D in proposed § 2.2-2644
36 supra.

37 ~~§ 9-322 2.2-2645. Powers and duties; compliance with guidelines of Council.~~

38 The Council's powers and duties shall include but ~~not be~~ are not limited to:

- 39 1. Recommending strategies, standards, policies, and guidelines for the development of coordinated specialized
40 transportation services for elderly persons and disabled persons;
- 41 2. Developing a comprehensive statewide specialized transportation plan based upon regional and local
42 coordination of participating public transportation systems, private for-profit and nonprofit transportation providers, human
43 service transportation providers, and local volunteer resources;
- 44 3. Developing criteria for and administering the Specialized Transportation Incentive Fund and other funds under its
45 authority to fund innovative and coordinated specialized transportation planning and projects;
- 46 4. Identifying barriers to coordinated delivery of transportation services and recommending corrective actions;
- 47 5. Developing incentives for public-private partnerships;
- 48 6. Developing initiatives for eliminating constraints upon volunteers who provide transportation and recommending
49 incentives for those volunteers;
- 50 7. Developing safety, maintenance and operational guidelines for human service transportation providers;
- 51 8. Composing and directing the work of a specialized transportation technical advisory committee; and

1 9. Advising and reporting to the Governor and the General Assembly annually on potential program and policy
2 initiatives in specialized transportation.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 9-323 2.2-2646.~~ Specialized Transportation Technical Advisory Committee.

5 ~~A. In accordance with § 2.2-2645, the Specialized Transportation Technical Advisory Committee shall be created to~~
6 ~~assist the Council. The Committee shall be composed of representatives from the following agencies: the Department for the~~
7 ~~Aging, the Department for the Deaf and Hard-of-Hearing, the Department of Education, the Department of Medical Assistance~~
8 ~~Services, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department for Rights of~~
9 ~~Virginians with Disabilities, the Department of Rehabilitative Services, the Department of Social Services, the Department of~~
10 ~~Transportation's Directorate of Rail and Public Transportation or its successor agency and the Department for the Visually~~
11 ~~Handicapped-Blind and Vision Impaired and three representatives of public transportation providers or transportation district~~
12 ~~commissions to be appointed by the Council.~~

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 9-324 2.2-2647.~~ Specialized Transportation Incentive Fund.

15 The Specialized Transportation Incentive Fund (the "Fund") is hereby established and shall be used to assist
16 participating planning districts in the development of coordinated specialized transportation plans and projects. In order to be
17 eligible to receive funds from the ~~Specialized Transportation Incentive Fund~~, a planning district commission or single locality
18 shall establish, in consultation with its metropolitan planning organization if one exists, an advisory transportation coordination
19 committee and shall submit to the ~~Specialized Transportation Council~~ a plan for cost-effective coordination of specialized
20 transportation services in the planning district or in localities within the planning district. Single localities may appoint an
21 advisory transportation coordinating committee independent of the planning district commission and receive specialized
22 transportation incentive funds if the locality is located in a regional planning district in which all other localities are recipients
23 of the federal funds and subject to the provisions of Title II of the Americans with Disabilities Act, Public Law 101-336. The
24 advisory transportation coordination committee shall guide planning for the coordination and administration of specialized
25 transportation with human service agencies, participating public transportation systems and, where appropriate, with private
26 for-profit and nonprofit transportation providers. Advisory transportation coordination committees shall be composed of, but
27 not limited to, elderly and disabled persons, providers of specialized transportation systems, participating public transportation
28 systems, and local private for-profit and nonprofit transportation providers. Localities and public transportation systems
29 subject to Title II of the Americans with Disabilities Act, Public Law 101-336, shall not be required to participate in coordinated
30 specialized transportation plans, but may participate at their option.

31 **DRAFTING NOTE:** Technical corrections only.

32 Article 16.

33 State Executive Council For Comprehensive Services For At-Risk Youth And Families.

34 ~~§ 2-1-746 2.2-2648.~~ State Executive Council for Comprehensive Services for At-Risk Youth and Families; ~~members;~~
35 ~~duties membership; meetings.~~

36 ~~The members of the state executive council~~ A. The State Executive Council for Comprehensive Services for At-Risk
37 Youth and Families (the "Council") is established as a supervisory council, within the meaning of § 2.2-2100, in the executive
38 branch of state government

39 B. The Council shall be consist of the Commissioners of Health, of Mental Health, Mental Retardation and
40 Substance Abuse Services and of Social Services; the Superintendent of Public Instruction; the Executive Secretary of the
41 Virginia Supreme Court; the Director of the Department of Juvenile Justice; the Director of the Department of Medical
42 Assistance Services; two local government representatives to include a member of a county board of supervisors or a city
43 council and a county administrator or city manager, to be appointed by the Governor; a private provider representative from a
44 facility that maintains membership in an association of providers for children's or family services and receives funding as
45 authorized by ~~this chapter~~ the Comprehensive Services Act (§ 2.2-5200 et seq.), to be appointed by the Governor, who may
46 appoint from nominees recommended by the Virginia Coalition of Private Provider Associations; and a parent representative.
47 The parent representative shall be appointed by the Governor for a term not to exceed three years and shall not be an
48 employee of any public or private program ~~which that~~ serves children and families.

49 B. The council ~~Council~~ shall annually elect a chairman who shall be responsible for convening the council. The
50 ~~council~~ Council shall meet, at a minimum, quarterly, to oversee the administration of this ~~chapter~~ article and make such
51 decisions as may be necessary to carry out its purposes.

52 C. The state executive council ~~Council~~ shall have the following powers and duties:

- 53 1. Hire and supervise a director of the Office of Comprehensive Services for At-Risk Youth and Families;

2. Appoint the members of the state and local advisory team in accordance with the requirements of ~~§ 2.1-747~~ 2.2-5201;
3. Provide for the establishment of interagency programmatic and fiscal policies developed by the Office of Comprehensive Services for At-Risk Youth and Families, which support the purposes of ~~this chapter~~ the Comprehensive Services Act (§ 2.2-5200 et seq.), through the promulgation of regulations by the participating state boards or by administrative action, as appropriate;
4. Provide for a public participation process for programmatic and fiscal guidelines developed for administrative actions ~~which that~~ support the purposes of ~~this chapter~~ the Comprehensive Act (§ 2.2-5200 et seq.). ~~Such~~ The public participation process shall include, at a minimum, sixty days of public comment, and the distribution of these guidelines;
5. Oversee the administration of state policies governing the use, distribution and monitoring of moneys in the state pool of funds and the state trust fund;
6. Provide for the administration of necessary functions ~~which that~~ support the work of the Office of Comprehensive Services for At-Risk Youth and Families;
7. Review and take appropriate action on issues brought before it by the Office of Comprehensive Services for At-Risk Youth and Families;
8. Advise the Governor and appropriate Cabinet Secretaries on proposed policy and operational changes ~~which that~~ facilitate interagency service development and implementation, communication and cooperation;
9. Provide administrative support and fiscal incentives for the establishment and operation of local comprehensive service systems;
10. Oversee coordination of early intervention programs to promote comprehensive, coordinated service delivery, local interagency program management, and co-location of programs and services in communities. Early intervention programs include state programs under the administrative control of the state executive council member agencies;
11. Oversee the development and implementation of a mandatory uniform assessment instrument and process to be used by all localities to identify levels of risk of Comprehensive Services Act (CSA) youth;
12. Oversee the development and implementation of uniform guidelines to include initial intake and screening assessment, development and implementation of a plan of care, service monitoring and periodic follow-up, and the formal review of the status of the youth and the family;
13. Oversee the development and implementation of uniform guidelines for documentation for CSA-funded services;
14. Oversee the development and implementation of mandatory uniform guidelines for utilization management; each locality receiving funds for activities under the Comprehensive Services Act shall have a locally determined utilization management plan following the guidelines or use of a process approved by the ~~State Executive Council~~ for utilization management, covering all CSA-funded services;
15. Oversee the development, implementation, and collection of uniform data collection standards, and the development of outcome measures; including, but not limited to, expenditures, number of youth served in specific CSA activities, length of stay for residents in core licensed residential facilities, and proportion of youth placed in treatment settings suggested by a uniform assessment instrument for CSA-funded services;
16. Oversee the establishment of a dispute resolution procedure, which includes a notice and an appeals process, should the ~~State Executive Council~~ find, upon a formal finding, that a Community Policy and Management Team (CPMT) failed to comply with any provision of this Act, and the procedure shall also include provisions for remediation by the CPMT;
17. ~~Have the authority to deny~~ Deny state funding to a CPMT that fails to comply with the provisions of ~~this Act~~ the Comprehensive Services Act (§ 2.2-5200 et seq.), in accordance with subdivision 16; and
18. Biennially publish and disseminate to members of the General Assembly and community policy and management teams a state progress report on comprehensive services to children, youth and families and a plan for such services for the next succeeding biennium. The state plan shall:
- Provide a fiscal profile of current and previous years' federal and state expenditures for a comprehensive service system for children, youth and families;
 - Incorporate information and recommendations from local comprehensive service systems with responsibility for planning and delivering services to children, youth and families;
 - Identify and establish goals for comprehensive services and the estimated costs of implementing these goals, report progress toward previously identified goals and establish priorities for the coming biennium; and
 - Include such other information or recommendations as may be necessary and appropriate for the improvement and coordinated development of the state's comprehensive services system.

DRAFTING NOTE: Technical corrections.

~~§ 2.1-746~~ 2.2-2649. Office of Comprehensive Services for At-Risk Youth and Families established; powers and duties.

1 A. The Office of Comprehensive Services for At-Risk Youth and Families is hereby established to serve as the
2 administrative entity of the ~~state executive council~~ Council and to ensure that the decisions of the council are implementec
3 The director shall be hired by and subject to the direction and supervision of the ~~state executive council~~ Council pursuant to §
4 ~~2-1-746~~ 2-2-2648.

5 B. The director of the Office of Comprehensive Services for At-Risk Youth and Families ~~is authorized to may~~:

6 1. Develop and recommend to the state executive council programs and fiscal policies that promote and support
7 cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and
8 local levels;

9 2. Develop and recommend to the ~~state executive council~~ Council state interagency policies governing the use,
10 distribution and monitoring of moneys in the state pool of funds and the state trust fund;

11 3. Develop and provide for the consistent oversight for program administration and compliance with state policies
12 and procedures;

13 4. Provide for training and technical assistance to localities in the provision of efficient and effective services that are
14 responsive to the strengths and needs of troubled and at-risk youths and their families;

15 5. Serve as liaison to the participating state agencies that administratively support the Office and that provide other
16 necessary services; and

17 6. Hire appropriate staff as approved by the ~~state executive council~~ Council.

18 **DRAFTING NOTE:** Technical corrections only.

19 Article 17.

20 State Health Benefits Advisory Council.

21 §-2-1-20.1:04 2.2-2650. State Health Benefits Advisory Council; purpose; membership; terms; chairman.

22 ~~There is hereby created a State Health Benefits Advisory Council. The Council shall~~ A. The State Health Benefits
23 Advisory Council (the "Council") is established as an advisory council, within the meaning of § 2.2-2100, in the executive
24 branch of state government. The purpose of the Council shall be to advise the Secretary of Administration on issues and
25 concerns of state retirees and active employees regarding health insurance coverage and other health-related benefits.

26 B. The Council shall consist of seventeen members. Nine members, two of whom have retired from state service
27 three of whom are state employees in management positions and four of whom are state employees in nonmanagement
28 positions, shall be appointed by the Governor; four members shall be appointed by the Speaker of the House of Delegates;
29 and four members shall be appointed by the Senate Committee on Privileges and Elections. The Speaker and the Committee
30 shall each appoint one state employee in a management position, one state employee in a nonmanagement position and two
31 citizen members. Appointees shall be subject to confirmation by the General Assembly.

32 C. Members shall serve for two-year terms and no member shall serve for more than two full successive terms. The
33 present members of the Council shall continue to serve for the terms to which they have been appointed. Of the members to
34 be appointed in 1993, half shall be appointed for a one-year term and half shall be appointed to a two-year term. All
35 appointments shall expire on June 30th of the year in which the term expires.

36 D. A chairman shall be elected annually. A majority of the members of the Council shall constitute a quorum.

37 E. Members of the Council shall be reimbursed for all reasonable and necessary expenses incurred in the discharge
38 of their duties as provided in § 2.2-2825.

39 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
40 A through D are § 2.1-20.1:01, and subsection E was added to clarify that members of the Council are entitled to
41 reimbursement of their expense in accordance with existing § 2.1-20.10. The last sentence in subsection D was added to
42 clarify the quorum requirements for the Council.

43 Article 18.

44 Technology Services, Council On.

45 §-2-1-51.48 2.2-2651. Council on Technology Services-~~created~~; purpose; membership; ~~duties~~ chairman.

46 ~~A. There is hereby established a~~ The Council on Technology Services (the "COTS") is established as an advisory
47 council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be
48 to advise and assist the Secretary of Technology in exercising the powers and performing the duties conferred by this chapter
49 Article 9 (§ 2.2-225 et seq.) of Chapter 2 of this title.

50 B. The COTS shall consist of no more than twenty-six nor fewer than twenty members, to be appointed by the
51 Governor upon recommendation of the Secretary of Technology, as follows: at least one representative from the Secretariats
52 of Administration, Commerce and Trade, Education, Finance, Health and Human Resources, Natural Resources, Public
53 Safety, and Transportation; at least four representatives from ~~state supported~~ public institutions of higher education; at lea

1 one representative from an independent agency of state government; and at least three representatives from public bodies
2 other than the Commonwealth selected from a list of names submitted by the Virginia Local Government Information
3 Technology Executives. For terms coincident with their terms of office, the following shall serve as ex officio, voting members
4 of the COTS: Director of the Department of Information Technology, Director of the Department of Technology Planning,
5 Director of Information Systems of the Supreme Court of Virginia, and Director of the Division of Legislative Automated
6 Systems.

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

11 C. The Secretary of Technology shall be the chairman of the COTS. The COTS shall meet quarterly and at such
12 other times as may be called by the chairman.

13 **DRAFTING NOTE:** Technical corrections only.

14 Article 19.

15 Virginia Advisory Council For Adult Education.

16 ~~§ 2.1-51.21:3 2.2-2652.~~ Virginia Advisory Council for Adult Education and Literacy ~~established;~~ purpose:
17 membership; terms; powers and duties; biennial state plan; office space and agency cooperation compensation.

18 ~~A. There is hereby created the Virginia Advisory Council for Adult Education and Literacy, hereinafter referred to as~~
19 ~~the "Advisory Council." The Advisory Council shall, through the exercise of its powers and performance of its duties, The~~
20 ~~Virginia Advisory Council for Adult Education and Literacy (the "Council") is established as an advisory council, within the~~
21 ~~meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to recommend an~~
22 ~~integrated and coordinated multi-agency approach for the delivery of quality adult education and literacy programs, services,~~
23 ~~and philosophies.~~

24 ~~For the purposes of this section, "adult education and literacy" means adult basic education, adult literacy education,~~
25 ~~adult secondary education, and the General Education Development (G.E.D.) preparation program.~~

26 ~~B.~~ The ~~Advisory Council~~ shall consist of fifteen members, eleven of whom are to be appointed by the Governor as
27 follows: one representative each from the Board of Education, Board for Virginia Community Colleges, Board of Correctional
28 Education, Board of Social Services, State Library Board, Governor's Job Training Coordinating Council, Department of
29 Business Assistance, Virginia Employment Commission, State Council of Higher Education, Virginia Literacy Foundation
30 Board, and Virginia Board for People with Disabilities. The Secretaries of Education, Health and Human Resources, Public
31 Safety, and Commerce and Trade or their designees shall serve as ex officio members. ~~The chairman and vice chairman of~~
32 ~~the Advisory Council shall be appointed by the Governor from among its membership.~~

33 ~~C.~~ All appointed members shall serve for four-year terms. Appointments to fill vacancies shall be made for the
34 unexpired terms. Members shall not be eligible to serve more than two consecutive four-year terms, except that any member
35 appointed to fill an initial term of less than four years or any member appointed to fill an unexpired term of less than four years
36 shall be eligible to serve two additional consecutive four-year terms.

37 ~~D.~~ The chairman and vice-chairman of the Council shall be appointed by the Governor from among its membership.
38 The ~~Advisory Council~~ shall meet at least four times a year, upon the call of the chairman.

39 ~~E.~~ Members of the ~~Advisory Council~~ shall not be compensated; ~~however, such members but~~ shall be reimbursed for
40 reasonable and necessary expenses incurred in the performance discharge of their duties ~~on behalf of the Advisory Council~~
41 pursuant to § 2.1-20.3 as provided in § 2.2-2825.

42 ~~B.~~ The powers and duties of the ~~Advisory Council~~ shall be to:

43 ~~1. Facilitate the coordination of adult education and literacy services and programs among agencies of the~~
44 ~~Commonwealth;~~

45 ~~2. Receive information and advice from state agency heads and representatives as necessary;~~

46 ~~3. Recommend those policies, legislation, and funding that are needed to advance its purpose to the relevant~~
47 ~~Cabinet Secretaries, state agencies and boards;~~

48 ~~4. Promote public/private partnerships and collaboration for adult education and literacy programs throughout the~~
49 ~~Commonwealth;~~

50 ~~5. Promote education and literacy services for adults in need of such services;~~

51 ~~6. Promote education and literacy services for foreign born adults in need of such services; and~~

52 ~~7. Represent and participate on behalf of the public sector in the Virginia Literacy Initiative, a public/private~~
53 ~~partnership for adult literacy education.~~

1 C. ~~The Council shall develop a biennial state plan for adult education and literacy which shall include~~
2 ~~recommendations for policies and goals for adult education and literacy services; identify adult education and literacy needs~~
3 ~~and gaps in services; and address identified needs for adult education and literacy programs in the Commonwealth. The~~
4 ~~biennial state plan shall be submitted to the Secretaries of Education, Commerce and Trade, Health and Human Resources,~~
5 ~~and Public Safety by July 1 of any year preceding each biennium budget year.~~

6 **DRAFTING NOTE:** Technical corrections. Existing subsections B and C now appear in proposed § 2.2-2653, Powers and
7 Duties of Council, infra.

8 § 2.2-2653. Powers and duties of Council; adult education and literacy defined.

9 A. The powers and duties of the Council shall be to:

10 1. Facilitate the coordination of adult education and literacy services and programs among agencies of the
11 Commonwealth;

12 2. Receive information and advice from state agency heads and representatives as necessary;

13 3. Recommend those policies, legislation, and funding that are needed to advance its purpose to the relevant
14 Cabinet Secretaries, state agencies and boards;

15 4. Promote public/private partnerships and collaboration for adult education and literacy programs throughout the
16 Commonwealth;

17 5. Promote education and literacy services for adults in need of such services;

18 6. Promote education and literacy services for foreign-born adults in need of such services; and

19 7. Represent and participate on behalf of the public sector in the Virginia Literacy Initiative, a public/private
20 partnership for adult literacy education.

21 B. The Council shall develop a biennial state plan for adult education and literacy that --shall include
22 recommendations for policies and goals for adult education and literacy services; identify adult education and literacy needs
23 and gaps in services; and address identified needs for adult education and literacy programs in the Commonwealth. The
24 biennial state plan shall be submitted to the Secretaries of Education, Commerce and Trade, Health and Human Resources,
25 and Public Safety by July 1 of any year preceding each biennium budget year.

26 C. For the purposes of this article, "adult education and literacy" means adult basic education, adult literacy
27 education, adult secondary education, and the General Education Development (G.E.D.) preparation program.

28 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of subsections B and C of existing § 2.1-
29 51.21:3 supra.

30 § 2.1-51.21:4 2.2-2654. Executive Director; appointment; responsibilities.

31 The Secretary of Education shall appoint an Executive Director of the ~~Advisory~~ Council who shall serve at his
32 pleasure. The Executive Director of the ~~Advisory Council~~ shall supervise and manage the Council's staff, prepare an annual
33 work plan, and perform such other duties and responsibilities as may be assigned by the Council and the Secretary of
34 Education.

35 The Department of Education shall, at the request of the Secretary of Education, provide office space and
36 administrative support services for the Executive Director and the Council's staff.

37 **DRAFTING NOTE:** Technical corrections only.

38 Article 20.

39 Virginia Equal Employment Opportunity Council.

40 § 2.1-116.10 2.2-2655. Purpose of chapter Virginia Equal Employment Opportunity Council; purpose; membership;
41 meetings; compensation; staff.

42 A. ~~It is hereby found~~, determined and declared that it is the policy of the Commonwealth to provide equal
43 employment opportunity to applicants and employees of the Commonwealth of Virginia on the basis of fitness and merit
44 without regard to race, color, religion, national origin, political affiliation, handicap, sex or age. The purpose of this ~~chapter~~
45 article is to create and empower an advisory committee ~~which that~~ shall be capable of providing direction to meet these stated
46 commitments.

47 B. To achieve the objectives of subsection A, the Virginia Equal Employment Opportunity Council (the "Council") is
48 established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The
49 Council shall consist of sixteen members selected from state employees and non-state employees. Members and a
50 chairperson shall be appointed by the Governor to serve at the pleasure of the Governor but no member shall serve more
51 than eight consecutive years.

2 C. The Council may meet as often as the proper and efficient discharge of its duties shall require but not less than
3 once every two months or upon call of the chairperson. A majority of the members of the Council shall constitute a quorum.

4 D. The members of the Council shall serve without compensation, but shall be reimbursed for all reasonable and
5 necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

6 E. The State Director of Equal Opportunity and Employee Programs shall serve as executive secretary to the
7 Council, and shall maintain and distribute to the Council members minutes of all meetings.

8 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
9 A is § 2.1-116.10, subsections B and E are § 2.1-116.11, subsection C is § 2.1-116.12, and subsection D is § 2.1-116.13.

10 ~~§ 2.1-116.11. Committee continued as Council; appointment and terms of members and chairperson; executive
11 secretary; minutes of meetings.~~

12 ~~The Virginia Equal Employment Opportunity Committee is continued and shall hereafter be known as the Virginia
13 Equal Employment Opportunity Council. The Council shall be composed of sixteen members selected from state employees
14 and non-state employees. Members and a chairperson shall be appointed by the Governor to serve at the pleasure of the
15 Governor but no member shall serve more than eight consecutive years. The State Director of Equal Opportunity and
16 Employee Programs shall serve as executive secretary to the Council, and shall maintain and distribute to the Council
members minutes of all meetings.~~

17 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B and E in proposed § 2.2-2655 supra.

18 ~~§ 2.1-116.12. Meetings; quorum.~~

19 ~~The Council may meet as often as the proper and efficient discharge of its duties shall require but not less than once
20 every two months or upon call of the chairperson. A majority of the members of the Council shall at all times constitute a
21 quorum for the transaction of its business.~~

22 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2655 (existing § 2.1-
23 116.10) supra.

24 ~~§ 2.1-116.13. Compensation and expenses.~~

25 ~~The members of the Council shall serve without compensation, but shall receive their necessary expenses incurred
26 in the discharge of their official duties.~~

27 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 2.2-2655 supra.

28 ~~§ 2.1-116.14 2.2-2656. Duties and powers of Council.~~

29 A. The Council shall be charged with the responsibility of monitoring the Commonwealth's equal employment
30 opportunity practices so as to ~~assure~~ ensure that such practices fulfill the Commonwealth's obligations of providing equal
31 opportunity to all employees and applicants. The Council may (i) call upon the Director of Human Resource Management and
32 other state officials for information and reports to assist them in their work; (ii) act as a communications channel for groups
33 both inside and outside of state government that wish to have their views on equal employment opportunity expressed to
34 state government; (iii) make recommendations to state agencies concerning the implementation of their affirmative action
35 plans and programs.

36 B. The Council members shall refer employees who have work related discrimination complaints to the Director of
37 Equal Opportunity and Employee Programs. Once the discrimination complaint is referred to the Director, the matter shall be
38 reviewed in accordance with the Equal Employment Opportunity Complaint Procedure of the Department of Human Resource
39 Management, or at the employee's option, the State Grievance Procedure (§ 2.2-3000 et seq.). The Committee shall audit
40 and review the Commonwealth's equal opportunity posture at least once a year and recommend improvements to the
41 Governor.

42 C. The Council shall review the progress of state agency affirmative action plans and programs, and make
43 recommendations for changes as warranted.

44 **DRAFTING NOTE:** Technical corrections only.

45 Article 21.

46 Virginia Council On Coordinating Prevention.

47 ~~§ 0-267 2.2-2657.~~ Definitions.

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

"Council" means the Virginia Council on Coordinating Prevention.

49 "Early intervention" means prevention efforts for individuals who are at-risk for developing problems based on
50 biological, psychological or social/environmental factors.

1 "Local prevention advisory team" means an inclusive community team designated by local government to devel
2 implement, monitor, and evaluate the community-based prevention plan.

3 "Plan" means the Comprehensive Prevention Plan.

4 "Prevention" means efforts that (i) promote health and competence in people and (ii) create, promote and strengthen
5 environments that nurture people in their development

6 **DRAFTING NOTE:** Technical corrections only.

7 ~~§ 9-268~~ 2.2-2658. Virginia Council on Coordinating Prevention; members; terms; chairman; compensation; staff.

8 A. The Virginia Council on Coordinating Prevention (the "Council") is hereby established. There shall be as an
9 advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The Council shall consist of
10 twenty-eight members appointed as follows: four members from the House of Delegates to be appointed by the Speaker of
11 the House and two members from the Senate to be appointed by the Senate Committee on Privileges and Elections. There
12 shall be; one member each from the Advisory Board for the Aging, Board of Correctional Education, State Board of
13 Corrections, State Board of Juvenile Justice, Criminal Justice Services Board, State Board of Education, State Board of
14 Health, Board of Medical Assistance Services, State Mental Health, Mental Retardation and Substance Abuse Services
15 Board, Virginia Board for People with Disabilities, Board of Social Services, Department of Motor Vehicles, Medical Advisory
16 Board, Alcoholic Beverage Control Board, Comprehensive Services State Executive Council, and the Substance Abuse
17 Council and Prevention Task Force of the Virginia Association of Community Services Boards, to be appointed by the
18 chairman of the respective board or council. Persons appointed to the Council by virtue of their membership on a board or
19 council listed above may serve on the Council only while a member of the respective board or council and may not serve on
20 the Council for more than two consecutive terms.

21 Five, and five members who shall be representatives of the private sector who are interested in prevention, to be
22 appointed by the Governor. Representatives of the private sector shall serve for terms of four years. Members appointed to
23 the Council by the Governor shall not be eligible to serve more than two consecutive full terms.

24 The Secretary of Health and Human Resources shall be an ex officio member of the Council.

25 B. The Governor shall appoint a chairman from the membership of the Council. The Council shall meet at least twice
26 a year.

27 C. Members of the Council shall be reimbursed for all reasonable and necessary expenses incurred in the discharge
28 of their duties as provided in § 2.2-2825.

29 D. Staff support shall be provided by the Department of Mental Health, Mental Retardation and Substance Abu
30 Services.

31 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections:
32 subsections A and B are § 9-268, subsection C is § 9-269, and subsection D is from § 9-270.

33 ~~§ 9-269. Meetings; compensation.~~

34 ~~The Council shall meet at least twice a year. Members of the Council shall be reimbursed for reasonable and~~
35 ~~necessary expenses incurred in the performance of their duties on behalf of the Council.~~

36 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B and C in proposed § 2.2-2658
37 (existing § 9-268) supra.

38 ~~§ 9-270~~ 2.2-2659. Powers and duties of the Council.

39 A. The Council shall have the power and duty to:

40 1. Review and comment on the Comprehensive Prevention Plan and submit these comments to the Governor
41 biennially prior to submission of the budget;

42 2. Recommend to the Governor policies, legislation, regulations, and funding that will further the purposes of the
43 Council and local prevention programs;

44 3. Recommend, in order of priority, prevention issues to be addressed by government and the private sector;

45 4. Recognize outstanding prevention programs and initiatives;

46 5. Recommend methods by which the Commonwealth may provide technical assistance and training to state and
47 local, public and private agencies, organizations or individuals to promote the development and implementation of prevention
48 initiatives;

49 6. Develop recommendations for the establishment and operation of a clearinghouse for information pertinent to
50 prevention initiatives, record keeping of existing prevention programs, and methods by which information concerning those
51 programs may be communicated to the public; and

52 7. Recommend methods by which the Commonwealth may collect data on the effectiveness of prevention program

1 B. In carrying out the purposes of this ~~chapter~~ article, the Council shall consider prevention activities, issues and
2 programs to be those governmental and private sector programs and/or services ~~which that~~ promote the maximum
3 independence of individuals and strengthen families; which avoid or minimize physical or mental disability or dysfunction;
4 which reduce the likelihood of dependency on governmental and private sector support, treatment and rehabilitative services;
5 and which encourage future cost savings through early intervention or treatment.

6 ~~C. Staff support shall be provided by the Department of Mental Health, Mental Retardation and Substance Abuse~~
7 ~~Services.~~

8 C. In order to provide for the planning and coordination of all state services to children and to enhance the role of the
9 family as the primary and fundamental influence on child development, the Council shall:

10 1. Develop a program to inform the public and professionals, who work with children, of the state and local services
11 available to children;

12 2. Aid in the provision of technical assistance and training in support of efforts to initiate or improve programs and
13 services for children; and

14 3. Assist in the planning of children's services and to facilitate the exchange of information and ideas on children's
15 issues.

16 **DRAFTING NOTE:** Technical corrections. Existing subsection C (show as stricken) now appears as subsection D in
17 proposed § 2.2-2658 supra. Proposed subsection C is existing § 9-270.1.

18 ~~§ 9-270.1. Additional powers and duties of Council.~~

19 ~~In order to provide for the planning and coordination of all state services to children and to enhance the role of the~~
20 ~~family as the primary and fundamental influence on child development, the Council shall also have the following powers and~~
21 ~~duties:~~

22 ~~1. To develop a program to inform the public and professionals, who work with children, of the state and local~~
23 ~~services available to children;~~

24 ~~2. To aid in the provision of technical assistance and training in support of efforts to initiate or improve programs and~~
25 ~~services for children; and~~

26 ~~3. To assist in the planning of children's services and to facilitate the exchange of information and ideas on children's~~
27 ~~issues.~~

28 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2659 supra.

29 ~~§ 9-274 2.2-2660. Comprehensive Prevention Plan.~~

30 A Comprehensive Prevention Plan shall be jointly developed biennially by the following agencies:

31 Department for the Aging, Department of Alcoholic Beverage Control, Department of Correctional Education,
32 Department of Corrections, Department of Juvenile Justice, Department of Criminal Justice Services, Department of
33 Education, Department of Health, Department of Medical Assistance Services, Department of Mental Health, Mental
34 Retardation and Substance Abuse Services, Department of Motor Vehicles, Department for Rights of Virginians With
35 Disabilities, and Department of Social Services. The Secretary of Health and Human Resources shall designate an agency to
36 coordinate development of the Plan.

37 The Comprehensive Prevention Plan shall coordinate and integrate the planning efforts of the state agencies listed
38 above and the private sector in order to provide a broad prevention agenda for the Commonwealth, enable communities to
39 design and implement prevention programs that meet the identified needs of the community and facilitate the development of
40 interagency and broad-based community involvement in the development of prevention programs. The Comprehensive
41 Prevention Plan shall identify priority prevention issues and challenges, prevention goals and objectives and public and
42 private strategies to achieve goals and objectives.

43 For the purposes of the Plan, prevention activities, issues and programs shall be those activities ~~which that~~ promote
44 the objective identified in subsection B of ~~§ 9-270 2.2-2659~~. The Plan with a cost analysis of the proposed strategies shall be
45 submitted to the House Committee on Health, Welfare and Institutions and the Senate Committees on Rehabilitation and
46 Social Services and Education and Health for the purpose of analysis, review and comment prior to implementation.

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§ 9-272 2.2-2661. State agency responsibilities.~~

49 The agencies listed in ~~§ 9-274 2.2-2660~~ shall have the duty to:

50 1. Participate in the development of the Comprehensive Prevention Plan, based on risks, protective factors, and
51 clearly defined benchmarks, and shall include cost estimates for implementation and long-term cost savings;

52 2. Develop and implement, to the extent authorized by law, programs that support the Comprehensive Prevention
53 Plan;

3. Facilitate the involvement of local service providers in interagency, broad-based community development and implementation of local prevention programs consistent with the Comprehensive Prevention Plan;
4. Require that the planning process for all agency programs that relate to the priority issues identified by the Council include an analysis of their prevention component or potential and their potential impact on budgetary requests;
5. Set funding priorities and recommend regulations and guidelines to the Council to administer the Community Prevention Initiative Grants Program;
6. Support the development of a state prevention activities database that includes risk and protective factors;
7. Develop and implement a set of essential elements of a community-based prevention plan to be used by state agencies that provide grant funding for prevention services;
8. Provide coordinated and comprehensive training and technical assistance to localities for prevention planning and implementation; and
9. Facilitate the involvement of local service providers in the development and implementation of the community-based prevention plan as prepared by the local prevention advisory team.

DRAFTING NOTE: Technical corrections only.

~~§ 9-272-1~~ 2.2-2662. Community Prevention Initiative Grants Program.

With such funds as may be appropriated for this purpose, the Community Prevention Initiative Grants Program is created and ~~will~~ shall provide grants to local units of government to engage in programs to prevent substance abuse, delinquency, dropping out of school, and related negative behaviors and conditions. All political subdivisions shall be eligible to receive such grants provided the following conditions are met:

1. The locality has conducted an assessment of the needs of "at risk" youth in the community, identified all existing preventive programs and resources, and documented the need for additional programs;
2. The locality has developed a plan to implement the proposed project. The plan ~~must~~ shall contain a component to evaluate its effectiveness and a component to ensure private sector involvement. Private sector involvement includes citizens, businesses and corporations, and private programs and organizations; and
3. The locality ~~will~~ shall comply with all regulations ~~which~~ that will ensure program effectiveness, cost efficiency, and sound fiscal management.

The agencies listed in ~~§ 9-274~~ 2.2-2660 shall jointly evaluate the funded programs.

DRAFTING NOTE: Technical corrections only.

~~§ 9-273~~ 2.2-2663. Analysis of prevention potential by executive branch.

The executive branch of state government shall incorporate in its planning process, whenever possible, an analysis of the prevention potential or component of all legislation and initiatives related to the priorities identified in the Comprehensive Prevention Plan.

DRAFTING NOTE: Technical corrections only.

Article 22.

Virginia Interagency Coordinating Council.

~~§ 2-1-766~~ 2.2-2664. Virginia Interagency Coordinating Council; ~~composition and purpose; membership; duties.~~

A. The Virginia Interagency Coordinating Council ~~(the "Council") is hereby continued established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to promote and coordinate early intervention services in the Commonwealth.~~

B. The membership and operation of the Council shall be as required by Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). The agency representatives shall be appointed by the member of their agency who serves on the early intervention agencies committee. Agency representatives shall regularly inform their agency head of the Council's activities and the status of the implementation of an early intervention services system in the Commonwealth.

~~B.~~ C. The Council's duties shall include advising and assisting the lead agency in the following:

1. Performing its responsibilities for the early intervention services system;
2. Identifying sources of fiscal and other support for early intervention services, recommending financial responsibility arrangements among agencies, and promoting interagency agreements;
3. Developing strategies to encourage full participation, coordination, and cooperation of all appropriate agencies;
4. Resolving interagency disputes;
5. Gathering information about problems that impede timely and effective service delivery and taking steps to ensure that any identified policy problems are resolved;

6. Preparing federal grant applications; and
7. Preparing and submitting an annual report to the Governor and the U.S. Secretary of Education on the status of early intervention services within the Commonwealth.

DRAFTING NOTE: Technical corrections only.

Article 23.

Virginia Military Advisory Council.

~~§ 9-95.5 2.2-2665. Virginia Military Advisory Council created; composition; purpose; membership; staff.~~

~~The Virginia Military Advisory Council is hereby created. A. The Virginia Military Advisory Council (the "Council") is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to maintain a cooperative and constructive relationship between the Commonwealth and the leadership of the several Armed Forces of the United States and the military commanders of such Armed Forces stationed in the Commonwealth.~~

~~B. The Council shall be composed consist of not more than twenty-five members and shall include the Lieutenant Governor, the Attorney General, the Adjutant General, the Chairman of the Board of Military Affairs, the Chairman of the House Committee on Militia and Police and the Chairman of the Senate Committee on General Laws or their designees, four members to be appointed by and serve at the pleasure of the Governor and not more than fifteen members, including representatives of major military commands and installations located in the Commonwealth or in jurisdictions adjacent thereto, who shall be appointed by the Governor from persons nominated by the Secretaries of the Armed Forces of the United States and who shall serve at the pleasure of the Governor. The provisions of § 49-1 shall not apply to federal civilian officials and military personnel appointed to the Council.~~

~~C. Staff support for the conduct of the Council's business shall be furnished by the Office of the Governor, the Office of the Secretary of Public Safety, the Department of Military Affairs, and such other executive agencies designated by the Governor.~~

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsections A and B are § 9-95.5 and subsection C is § 9-95.6.

~~§ 9-95.6 2.2-2666. Duties of Council; staff support.~~

~~The Council shall identify and study and provide advice and comments to the Governor on issues of mutual concern to the Commonwealth and the Armed Forces of the United States, including exclusive and concurrent jurisdiction over military installations, educational quality and the future of federal impact aid, transportation needs, alcoholic beverage law enforcement, substance abuse, social service needs, possible expansion and growth of military facilities in the Commonwealth and such other issues as the Governor or the Council may determine to be appropriate subjects of joint consideration.~~

~~Such staff support as is necessary for the conduct of the Council's business shall be furnished by the Office of the Governor, the Office of the Secretary of Public Safety, the Department of Military Affairs, and such other executive agencies as the Governor may designate.~~

DRAFTING NOTE: Technical corrections. The last paragraph in this section now appears as subsection C in proposed § 2.2-2665 supra.

Article 24.

Virginia Recycling Markets Development Council.

~~§ 9-145.47 2.2-2667. The Virginia Recycling Markets Development Development Council established; duties and responsibilities; membership; meetings; staff.~~

~~A. The Virginia Recycling Markets Development Council (the "Council") is hereby established and shall be referred to in the chapter as the Council. The Council shall have the following functions:~~

~~1. To promote and coordinate state agencies' and authorities' efforts to enhance markets for recycled or recovered materials;~~

~~2. To promote the purchase of products made from recycled or recovered material;~~

~~3. To identify and evaluate financial and other incentives which may attract new businesses that can use recycled or recovered materials generated in Virginia;~~

~~4. To identify barriers to the development of markets for recycled materials including existing state policies, regulations and procedures, and recommend alternatives to overcome such obstacles;~~

~~5. To develop recommendations for the establishment of a regional or interstate marketing system for recycled materials;~~

- 1 6. ~~To encourage the use of uniform recycling definitions and standards throughout the state;~~
2 7. ~~To promote and encourage public/private market development initiatives;~~
3 8. ~~To report annually its findings and recommendations to the Governor and the General Assembly; and~~
4 9. ~~To determine the volume of materials by varying categories or commodities which is being recycled in the~~
5 ~~Commonwealth and to report its findings in its 1998 annual report. The Council shall investigate the frequency of situations in~~
6 ~~which, because of market conditions or other factors, materials collected for recycling are otherwise disposed of, and~~
7 ~~determine measures to avoid the recurrence of such situations. The Department of Environmental Quality shall provide staff~~
8 ~~to the Council for the purposes of this subdivision and shall cooperate with the Council in the preparation of the report.~~

9 B. ~~The Council shall develop and monitor the implementation of a plan to strengthen Virginia's recycling~~
10 ~~infrastructure and markets which will (i) improve the supply and quantity of recyclables available, (ii) expand the capacity of~~
11 ~~collectors, processors and manufacturers to handle and use secondary materials, and (iii) incorporate strategies to increase~~
12 ~~the use of specific materials, as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state~~
13 ~~government. The Council shall be composed of nineteen members as follows: the Directors, or a policy-making designee, of~~
14 ~~the Departments of Economic Development, Environmental Quality, General Services and Transportation; and fifteen citizen~~
15 ~~members appointed by the Governor. The citizen members shall be appointed from among residents of the Commonwealth~~
16 ~~who are knowledgeable about recycling and the development of markets for recyclable materials. Of the fifteen citizen~~
17 ~~members, one member shall be a representative of county governments selected from nominations submitted by the Virginia~~
18 ~~Association of Counties; one member representing municipal government selected from nominations submitted by the~~
19 ~~Virginia Municipal League; one member representing urban Planning District Commissions and one member representing~~
20 ~~rural Planning District Commissions selected from nominations submitted from the Association of Planning Districts; one~~
21 ~~member from the general public; and one representative each, selected from nominations submitted by recognized industry~~
22 ~~associations representing solid waste collection and disposal, recycling, glass, paper, aluminum, plastic, tire, oil, scrap metal~~
23 ~~and organic waste.~~

24 B. Citizen members of the Council shall serve four-year terms. They shall not receive a per diem, compensation for
25 their service, or travel expenses.

26 C. The Council shall elect a chairman and vice-chairman annually from among its members. The Council shall meet
27 at least quarterly on such dates and at such times as they determine. A majority of the members of the Council shall
28 constitute a quorum.

29 D. Staff support shall be provided by the members of the Council.

30 **DRAFTING NOTE:** Technical corrections. This proposed section is derived from § 9-145.48. The stricken language in
31 existing subsections A and B now appear in proposed § 2.2-2668, Powers and duties of the Council, infra.

32 § 2.2-2668. Powers and duties of Council.

33 The Council shall have the power and duty to:

34 1. Promote and coordinate state agencies' and authorities' efforts to enhance markets for recycled or recovered
35 materials;

36 2. Promote the purchase of products made from recycled or recovered material;

37 3. Identify and evaluate financial and other incentives that may attract new businesses that can use recycled or
38 recovered materials generated in Virginia;

39 4. Identify barriers to the development of markets for recycled materials including existing state policies, regulations
40 and procedures, and recommend alternatives to overcome such obstacles;

41 5. Develop recommendations for the establishment of a regional or interstate marketing system for recycled
42 materials;

43 6. Encourage the use of uniform recycling definitions and standards throughout the state;

44 7. Promote and encourage public/private market development initiatives;

45 8. Report annually its findings and recommendations to the Governor and the General Assembly; and

46 9. Determine the volume of materials by varying categories or commodities that is being recycled in the
47 Commonwealth and to report its findings in its annual report. The Council shall investigate the frequency of situations in
48 which, because of market conditions or other factors, materials collected for recycling are otherwise disposed of, and
49 determine measures to avoid the recurrence of such situations. The Department of Environmental Quality shall provide staff
50 to the Council for the purposes of this subdivision and shall cooperate with the Council in the preparation of the report.

51 B. The Council shall develop and monitor the implementation of a plan to strengthen Virginia's recycling
52 infrastructure and markets that will (i) improve the supply and quantity of recyclables available; (ii) expand the capacity of
53 collectors, processors and manufacturers to handle and use secondary materials; and (iii) incorporate strategies to increase
54 the use of specific materials.

55 **DRAFTING NOTE:** Technical corrections. This proposed section is derived from existing subsections A and B of § 9-145.4

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

8 D. The Governor shall select a chairman and vice-chairman from among the twenty-one business representatives
9 appointed in accordance with subsection ~~CB~~. The Council shall meet regularly.

10 E. Appointed members of the Council shall not be compensated; however, they receive compensation but shall be
11 reimbursed for all reasonable and necessary expenses incurred in the performance discharge of their duties on behalf of the
12 Council as provided in § 2.2-2825.

13 F. ~~The Council shall assist the Governor in the following areas with respect to workforce development: development
14 of the WIA State Plan; development and continuous improvement of a statewide system of activities that are funded under the
15 WIA or carried out at a one-stop-delivery system; development of linkages to ensure coordination and nonduplication among
16 programs and activities; review of local plans; commenting at least once annually on the measures taken pursuant to §§
17 121(a)(1)(D)(i) and 122(c)(16) and (c)(21) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. §
18 2301 et seq.); designation of local areas; development of allocation formulas; development and continuous improvement of
19 comprehensive state performance measures; preparation of the annual report to the U.S. Secretary of Labor; development of
20 a statewide employment statistics system; and development of incentive grant applications.~~

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

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

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

29 H. ~~Each chief local elected official shall consult with the Governor regarding designation of local workforce
30 investment areas; appoint members to the local board in accordance with state criteria; serve as the local grant recipient
31 unless another entity is designated in the local plan; negotiate local performance measures with the Governor; and
32 collaborate with the local workforce investment board on local plans and program oversight.~~

33 I. ~~The Virginia Secretary of Commerce and Trade, and at his direction, the Virginia Employment Commission, shall
34 be responsible for the coordination of the Virginia Workforce Development Program and the implementation of the WIA.~~

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

38 K. ~~Regional workforce training centers shall be established at institutions within the Virginia Community College
39 System in the Peninsula, Southside, Central Virginia, and Western Tidewater regions to assist the Council in (i) coordinating
40 specific high-skill training, (ii) developing industry standards and related curricula, and (iii) providing skills assessments.~~

41 ~~The Virginia Community College System shall evaluate other regional workforce center locations and recommend to
42 the Council their establishment as such needs are identified. The Virginia Community College System shall support regional
43 workforce training centers created by the Regional Competitiveness Act (§ 15.2-1306 et seq.) in which community colleges
44 participate.~~

45 **DRAFTING NOTE:** Technical corrections. Existing subsections B, F, G, H, and J, shown here as stricken, now appear as
46 proposed subsection C through G in proposed § 2.2-2670 infra. Existing subsection K, shown here as stricken, now appears
47 in proposed § 2.2-2671, Regional workforce training centers, infra.

48 ~~§ 9-329.2 2.2-2670. Meetings; powers Powers and duties of the Council; Virginia Workforce Development Program
49 created.~~

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

- 52 1. Identify current and emerging workforce needs of the business community;
- 53 2. Assess potential markets for increasing the number of workers available to business and industry;
- 54 3. Forecast and identify training requirements for the new workforce;
- 55 4. Create strategies that will match trained workers with available jobs;

2 5. Certify noncredit courses and programs of training, exclusive of apprenticeship programs and federally sponsored
3 programs conducted under Public Law 97-300, as appropriate offered by public, private, and proprietary institutions and
4 responding to the needs of business and industry in the Commonwealth;

5 6. Make alterations from time to time in such approved programs;

6 7. With the assistance of regional workforce centers, seek to identify other specific and existing workforce needs in
7 sectors of the economy, including public education, which have high potential for sustained demand or growth;

8 8. Meet with representatives of each regional workforce center at least annually to assess and discuss subdivisions
9 1 through 4 of this section within their service region;

10 9. Establish the procedures, criteria and performance measures for the Workforce Development Training Fund as
11 established pursuant to Article 4 (§ 60.2-318 et seq.) of Chapter 3 of Title 60.2;

12 10. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through
13 4, 7 and 9 of this section; and

14 11. Perform any act or function ~~that is in accord~~ accordance with the purposes of this ~~chapter~~ article.

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

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

20 D. The Council shall assist the Governor in the following areas with respect to workforce development: development
21 of the WIA State Plan; development and continuous improvement of a statewide system of activities that are funded under the
22 WIA or carried out as a one-stop delivery system; development of linkages to ensure coordination and nonduplication among
23 programs and activities; review of local plans; commenting at least once annually on the measures taken pursuant to §§
24 121(a)(1)(D)(i) and 122(c)(16) and (c)(21) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. §
25 2301 et seq.); designation of local areas; development of allocation formulas; development and continuous improvement of
26 comprehensive state performance measures; preparation of the annual report to the U.S. Secretary of Labor; development of
a statewide employment statistics system; and development of incentive grant applications.

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

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

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

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

39 G. The Virginia Secretary of Commerce and Trade, and at his direction, the Virginia Employment Commission, shall
40 be responsible for the coordination of the Virginia Workforce Development Program and the implementation of the WIA.

41 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections:
42 subsections A and B are § 9-329.2, subsections C through G are from § 9-329.1.

43 § 2.2-2671. Regional workforce training centers.

44 A. Regional workforce training centers shall be established at institutions within the Virginia Community College
45 System in the Peninsula, Southside, Central Virginia, and Western Tidewater regions to assist the Council in (i) coordinating
46 specific high-skill training, (ii) developing industry standards and related curricula, and (iii) providing skills assessments.

47 B. The Virginia Community College System shall evaluate other regional workforce center locations and recommend
48 to the Council their establishment as such needs are identified. The Virginia Community College System shall support
49 regional workforce training centers created by the Regional Competitiveness Act (§ 15.2-1306 et seq.) in which community
50 colleges participate.

51 C. Approved noncredit workforce training programs offered by community colleges may receive general fund support
52 as provided in the appropriation act.

DRAFTING NOTE: Technical corrections. Subsections A and B of this proposed section are derived from subsection K of
existing § 9-329.1, and subsection C is derived from existing § 9-329.5.

1 | ~~§ 0-320.3~~ 2.2-2672. Authorization of facilities use and equipment rental; fees.

2 | Workforce training students at local community college boards and public institutions of higher education may be
3 | required to pay facility use and equipment rental fees beyond regular tuition charges for workforce training programs requiring
4 | specialized facilities or equipment. Such fees shall either be paid by such students directly to the provider of the facility or
5 | equipment or to the college for reimbursement to such provider. The fees shall be no more than the normal fees charged to
6 | the general public for the same or similar facilities or equipment. The nature of each fee authorized by this section shall be
7 | described in course schedules. All fees authorized by this section shall be reported annually to the Virginia Community
8 | College System and public institutions' boards.

9 | **DRAFTING NOTE:** Technical corrections only.

10 | ~~§ 0-320.4~~ 2.2-2673. Trade secrets.

11 | Trade secrets that a nonpublic body submits as an offeror in connection with a proposed workforce training program
12 | shall not be subject to disclosure under the Virginia Freedom of Information Act (~~§ 2-1-340-2.2-3700~~ et seq.). However, such
13 | offeror shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the
14 | data or other materials to be protected, and (iii) state the reasons why protection is necessary.

15 | **DRAFTING NOTE:** Technical corrections only.

16 | ~~§ 0-320.5. Funds for workforce training programs.~~

17 | ~~Approved noncredit workforce training programs offered by community colleges may receive general fund support as~~
18 | ~~provided in the appropriation act.~~

19 | **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2671, relating to
20 | regional workforce training centers, supra.

21 | ~~§ 0-320.6~~ 2.2-2674. Workforce Training Access Program and Fund.

22 | A. To facilitate the employment of residents of this Commonwealth, to provide a qualified and competent workforce
23 | for Virginia's employers, and to promote the industrial and economic development of the Commonwealth, which purposes are
24 | ~~hereby~~ declared and determined to be public purposes, there is ~~hereby~~ created the Workforce Training Access Program, to
25 | be administered by the Secretary of Finance as provided in this section.

26 | B. From such funds as are appropriated for this purpose and from such gifts, donations, grants, bequests, and other
27 | funds as may be received on its behalf, there is ~~hereby~~ created in the state treasury a special nonreverting fund to be known
28 | as the Workforce Training Access Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of
29 | the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining
30 | in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
31 | the Fund.

32 | The assets of the Fund shall be reserved, invested, and expended solely pursuant to and for the purposes of this
33 | section and shall not be expended or otherwise transferred or used by the Commonwealth for any other purpose.
34 | Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller
35 | upon written request signed by the Secretary of Finance only as a guaranty of payment of workforce training loans made by a
36 | national student loan marketing association pursuant to the provisions of this section.

37 | C. The Secretary of Finance is authorized to enter into an agreement with a national student loan marketing
38 | association that shall originate, fund and service workforce training loans in accordance with the provisions of this section, to
39 | persons enrolled in workforce training courses and programs ~~which that~~ the Statewide Workforce Training Council has
40 | certified to be responding to the technology needs of business and industry in the Commonwealth pursuant to ~~§ 0-320.2~~ 2.2-
41 | 2670.

42 | The terms and conditions of such workforce training loans shall be consistent with market conditions, and shall
43 | provide a repayment sufficient to amortize the cost of the training over its expected useful life, not to exceed sixty months. No
44 | person may receive a workforce training loan or loans ~~which that~~ would result in that person owing an outstanding amount in
45 | excess of the tuition and required fees for the certified workforce training course or program in which such person
46 | participates.

47 | Only persons (i) who have established domicile in Virginia, as provided in § 23-7.4 or (ii) who are employed in
48 | Virginia and whose employers make loan repayments directly by payroll deduction or tuition assistance, before providing for
49 | the training needs of other students in such certified courses, shall be eligible to receive workforce training loans. Nothing
50 | herein shall be construed to impose an obligation upon an employer to make loan payments or to continue tuition assistance
51 | after termination of the student's employment.

52 | Consistent with Sections 10 and 11 of Article VIII of the Constitution of Virginia, the assets of the Fund shall be
53 | pledged as a guaranty of payment of workforce training loans made by such national student loan marketing association and
54 | may be expended in satisfaction of the guaranty obligations incurred thereby. Neither the Commonwealth, nor any of

1 agencies, political subdivisions, nor employees shall have any other or further liability in connection with such workforce
2 training loans.

3 The agreement shall provide for annual evaluation by such national student loan marketing association and the
4 Secretary of Finance, or his designee, of the aggregate unpaid amount of workforce training loans ~~which that~~ such national
5 student loan marketing association shall make available hereunder. Such association shall agree to make available workforce
6 training loans in an aggregate unpaid amount of not less than five times the amount of all cash, cash equivalents,
7 investments, and other assets ~~which that~~ would then be available in the Fund.

8 D. If such association ceases to make workforce training loans available as provided under the agreement, the Fund
9 will revert to the general fund of the Commonwealth, free of the restrictions imposed by this section, after payment of or
10 provision for any outstanding obligations ~~which that~~ the Fund guarantees.

11 **DRAFTING NOTE:** Technical corrections only.

12 CHAPTER 27.

13 FOUNDATIONS AND OTHER COLLEGIAL BODIES.

14 Article 1.

15 Virginia Arts Foundation.

16 ~~§ 9-84.08 2.2-2700. Virginia Arts Foundation created; board of trustees; compensation; staff.~~

17 ~~There is hereby created the Virginia Arts Foundation, hereinafter referred to as the Foundation,~~

18 A. The Virginia Arts Foundation (the "Foundation"), is established to serve as an advisory foundation, within the
19 meaning of § 2.2-2100, in the executive branch of state government and shall be deemed a body politic and corporate to be
20 organized and to have such powers and duties as hereinafter provided in this article..

21 B. The Foundation shall be governed by a board of trustees, consisting of the members of the Virginia Commission
22 for the Arts.

23 C. Any person designated by the board of trustees to handle the funds of the Foundation shall give bond, with
24 corporate surety, in a penalty fixed by the Governor, conditioned upon the faithful discharge of his duties. Any premium on the
25 bond shall be paid from funds available to the Foundation.

26 D. The board of trustees, acting as members of the Virginia Commission for the Arts, shall be entitled to
27 reimbursement for all actual and necessary expenses, as provided by § 2.2-2509.

28 E. The Director of the Virginia Commission for the Arts shall serve as the chairman, and the staff of such
29 Commission shall serve as staff for the Foundation.

30 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
31 A is § 9-84.08 and subsections B through E are from § 9-84.09.

32 ~~§ 9-84.09. Administration of Foundation.~~

33 ~~A. The Foundation shall be governed by and administered by a board of trustees, consisting of the members of the~~
34 ~~Virginia Commission for the Arts.~~

35 ~~B. The Director of the Commission shall serve as the chairman and the staff of the Commission shall serve as staff~~
36 ~~for the Foundation.~~

37 ~~C. Any person designated by the board to handle the funds of the Foundation, shall give bond, with corporate surety,~~
38 ~~in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. Any premium on the bond~~
39 ~~shall be paid from funds available to the Foundation.~~

40 ~~D. Trustees of the Foundation, acting as members of the Virginia Commission for the Arts, shall be entitled to~~
41 ~~reimbursement for all actual and necessary expenses, as provided by § 9-84.02.~~

42 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 2.2-2700
43 supra.

44 ~~§ 9-84.09:2 2.2-2701. Powers of Foundation.~~

45 ~~The Foundation is authorized to may:~~

46 1. Make expenditures from the Fund's interest and income to assist the Virginia Commission for the Arts in
47 promoting the arts in the Commonwealth in accordance with ~~§ 9-84.03 2.2-2704.~~

48 2. Accept, hold and administer gifts and bequests of money, securities, or other property, absolutely or in trust, for
49 the purposes for which the Foundation is created.

50 3. Enter into contracts and execute all instruments necessary and appropriate to carry out the Foundation's
51 purposes.

1 4. Explore and make recommendations concerning other possible dedicated revenue sources for the Fund.

2 5. Perform any lawful acts necessary or appropriate to carry out the purposes of the Foundation.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 9-84.09:4~~ 2.2-2702. Virginia Arts Foundation Fund.

5 A. There is ~~hereby~~ created the Virginia Arts Foundation Fund, a special nonreverting trust fund on the books of the
6 Comptroller, to be administered by the Foundation.

7 B. The Fund shall include such funds as may be appropriated by the General Assembly ~~from time to time~~; revenues
8 transferred to the Fund from the special license plates for Virginians for the Arts program pursuant to § 46.2-749.2:2;
9 voluntary contributions collected through the income tax checkoff for the arts pursuant to § 58.1-346.6; and designated gifts,
10 contributions and bequests of money, securities, or other property of whatsoever character.

11 C. All money, securities, or other property designated for the Fund and any interest or income therefrom shall remain
12 in the Fund and shall not revert to the general fund. The Fund's principal shall not be subject to expenditure by the
13 Foundation.

14 **DRAFTING NOTE:** Technical corrections only.

15 ~~§ 9-84.09:4~~ ~~(Effective until June 30, 2000)~~ 2.2-2703. Moratorium on use of Fund's interest and income earned.

16 Interest and income earned on money, securities or property deposited in the Fund shall remain in the Fund and
17 shall not be subject to expenditure by the Foundation. This section shall expire on June 30, 2001.

18 **DRAFTING NOTE:** Technical corrections only.

19 ~~§ 9-84.09:3~~ 2.2-2704. Gifts and bequests; exemption from taxation.

20 Gifts and bequests of money, securities, or other property to the Fund, and the interest or income therefrom, shall be
21 deemed gifts to the Commonwealth, and the Fund shall be exempt from all state and local taxes. Unless otherwise restricted
22 by the terms of the gift or bequest, the Foundation ~~is authorized to~~ may sell, exchange, or otherwise dispose of such gifts and
23 bequests; ~~the~~ The proceeds from such transactions shall be deposited to the credit of the Fund. The Foundation shall not
24 actively solicit private donations for the Fund; however, this limitation shall not prevent the Foundation from actively
25 encouraging financial support for the Foundation through the special license plate and income tax checkoff programs.

26 **DRAFTING NOTE:** Technical corrections.

27 Article 2.

28 Virginia War Memorial Foundation.

29 ~~§ 2-1-51.27:4~~ 2.2-2705. Virginia War Memorial Foundation; purpose; membership; ~~expenses~~; ~~names of Virginians~~
30 ~~"Missing in Action"~~; terms; compensation; staff.

31 ~~A. There is hereby created the Virginia War Memorial Foundation, hereinafter referred to as the Foundation. The~~
32 Virginia War Memorial Foundation (the "Foundation") is established to serve as a policy foundation, within the meaning of §
33 2.2-2100, in the executive branch of state government. The Foundation shall be governed and administered by a board of
34 trustees for the purpose of honoring patriotic Virginians who rendered faithful service and sacrifice in the cause of freedom
35 and liberty for the Commonwealth and the nation in time of war.

36 B. The Foundation shall consist of the Secretary of Administration, who shall serve ex officio, and seventeen other
37 persons as follows: ~~(i)~~ four members of the House of Delegates to be appointed by the Speaker of the House; ~~(ii)~~ three
38 members of the Senate to be appointed by the Committee on Privileges and Elections of the Senate; and ~~(iii)~~ ten other
39 persons appointed by the Governor, subject to confirmation by the General Assembly. A majority of the trustees shall be
40 members or veterans of the armed forces of the United States or the Virginia National Guard. Members appointed should
41 include representatives of some or all of the various veterans organizations active in Virginia, as the Governor ~~may deem~~
42 meet deems appropriate.

43 ~~Of the trustees first appointed, all of whom shall begin their terms on July 1, 1992, five shall be appointed for a term~~
44 ~~of one year, five shall be appointed for a term of two years, and five shall be appointed for a term of three years. Thereafter,~~
45 C. Except for initial appointments, all appointments shall be for a term of three years. Appointments to fill vacancies shall be
46 made for the unexpired term. No person shall be eligible to serve for more than two successive full three-year terms;
47 ~~however.~~ However, any person appointed to an initial term of less than three years or to a vacancy shall be eligible to serve
48 two additional successive full three-year terms thereafter. Trustees may be removed by the Governor at his pleasure.

49 D. Trustees shall be reimbursed for their actual expenses incurred while attending meetings of the trustees or
50 performing other duties. However, such reimbursement shall not exceed the per diem rate established for members of the
51 General Assembly pursuant to ~~§ 44-1-18~~ 30-19.12.

2 E. The Secretary of Administration shall designate a state agency ~~or agencies~~ to provide the Foundation with administrative and other services.

3 ~~B-F.~~ The trustees shall adopt bylaws governing their organization and procedures and may ~~from time to time~~ amend
4 the same. The trustees shall elect from their number a chairman and such other officers as their bylaws may provide. They
5 shall also appoint an executive committee, composed of not less than five trustees, which committee shall exercise the
6 powers ~~vested in and perform the duties~~ imposed upon the Foundation by this section to the extent permitted by the
7 trustees in their bylaws.

8 ~~C. The names and homes of record designation of all Virginians "Missing In Action" as a result of the Vietnam War
9 and all Virginians "Killed in Action" as a result of the Persian Gulf Conflict shall be placed in the Virginia War Memorial.~~

10 **DRAFTING NOTE:** Technical corrections. Existing subsection C now appears as subsection A in proposed § 2.2-2708 infra.

11 ~~§ 2.1-51.27:2~~ 2.2-2706. Authority of Foundation.

12 The Foundation is vested with full authority to:

13 1. Manage, control, maintain, and operate the Virginia War Memorial, including the contents, furnishings, grounds,
14 funds, property and endowments thereof;

15 2. Set fees for the use of the Memorial;

16 3. Adopt ~~rules and regulations~~ for the use and visitation to the Memorial, which ~~rules and regulations~~ shall be exempt
17 from the provisions of the Administrative Process Act, ~~Title 9, Chapter 1.1:1 (§ 9-6.14:1 et seq.)~~ (§ 2.2-4000 et seq.);

18 4. Participate with the military forces of the United States and the Commonwealth and with veterans organizations in
19 the planning, development and execution of appropriate programs and events that further the purposes of the Memorial;

20 5. Employ and discharge from employment such persons as may be necessary to manage, control, maintain,
21 operate and raise funds for the Memorial;

22 6. Determine what programs and activities may and should be carried out at the Memorial;

23 7. Enter into contracts with respect to the duties and responsibilities imposed upon the Foundation herein; all such
24 contracts shall be approved by the Attorney General;

8. Establish a nonprofit corporation as an instrumentality to assist in the details of administering the affairs of the
Foundation;

27 9. Create, invest and use an endowment fund for the purposes set forth in this section;

28 10. Take such actions as may be reasonably necessary to seek, promote and stimulate contributions for the
29 endowment, maintenance, and improvement of the Memorial and activities therein;

30 11. Receive, expend and administer on behalf of the Commonwealth donations, gifts, grants, bequests and devises
31 of real and personal property for the endowment of the Memorial or for any special purpose designated by the donor ~~which~~
32 that is consistent with the purposes of the Memorial set forth herein in this article; and

33 12. Change the form of any funds, securities, or other property, real or personal, provided that such change is
34 consistent with the terms of the instrument under which the same was acquired.

35 **DRAFTING NOTE:** Technical corrections only.

36 ~~§ 2.1-51.27:3~~ 2.2-2707. Form of accounts and records; annual audit.

37 The accounts and records of the Foundation showing the receipt and disbursement of funds from whatever source
38 derived shall be established by the Auditor of Public Accounts in a manner similar to other organizations. The Auditor of
39 Public Accounts or his legally authorized representative shall annually audit the accounts of the Foundation, and the cost of
40 such audit services shall be borne by the Foundation.

41 **DRAFTING NOTE:** Technical corrections only.

42 ~~§ 2.1-51.27:4~~ 2.2-2708. Names of Virginians "Missing in Action"; ownership of War Memorial.

43 A. The names and homes of record designation of all Virginians "Missing In Action" as a result of the Vietnam War
44 and all Virginians "Killed in Action" as a result of the Persian Gulf Conflict shall be placed in the Virginia War Memorial.

45 B. The Virginia War Memorial, its grounds, all its contents, furnishings, funds, endowments, and other property, now
46 owned or hereafter acquired, are and shall remain property of the Commonwealth of Virginia.

47 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
48 A is from subsection C of § 2.1-51.27:1 and subsection B is § 2.1-51.27:4.

1 Article 3.

2 World Trade Alliance Of The Blue Ridge.

3 ~~§ 9-145.39.5- 2.2-2709. World Trade Alliance established; members of the Blue Ridge; membership; terms; staff;~~
4 ~~location.~~

5 A. ~~The World Trade Alliance of the Blue Ridge (the "Alliance") is hereby established to and shall be referred to in~~
6 ~~this chapter as the Alliance serve an advisory function within the meaning of § 2.2-2100.~~

7 B. ~~The Alliance shall be composed of twenty-one members representing the Virginia General Assembly and local~~
8 ~~and regional government and business leaders. The members shall be selected as follows: four members of the House of~~
9 ~~Delegates to be appointed by the Speaker of the House; three members of the Senate to be appointed by the Senate~~
10 ~~Committee on Privileges and Elections; and fourteen citizen members appointed by the Governor. At least five of the citizen~~
11 ~~members shall be associated with business enterprises actively engaged in exporting Virginia goods or services.~~

12 ~~B. Of the members to be appointed in 1993, seven shall be appointed for two year terms, seven shall be appointed~~
13 ~~for three year terms and seven shall be appointed for four year terms. Thereafter, C. After the original appointments, all~~
14 ~~appointments shall be for terms of four years, except the appointments to fill vacancies shall be for the unexpired terms.~~
15 ~~Vacancies for unexpired terms shall be filled in the same manner as the original appointments. No person shall be eligible to~~
16 ~~serve for more than two successive four-year terms; however, after the expiration of a term of three years or less, or after the~~
17 ~~expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such~~
18 ~~member if appointed thereto.~~

19 ~~C. D. The Alliance shall elect a chairman and vice chairman from among its members.~~

20 ~~E. The Alliance shall be staffed by the Virginia Economic Development Partnership. The Alliance's offices shall be~~
21 ~~housed in the Export Promotion Division of the Virginia Economic Development Partnership.~~

22 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections:
23 subsections A through D are from § 9-145.39.5 and subsection E is from § 9-245.39.7.

24 ~~§ 9-145.39.6 2.2-2710. Duties of the Alliance; application for and acceptance of gifts and grants.~~

25 ~~A. The Alliance shall:~~

26 1. ~~Focus on the strengths and needs of the Blue Ridge region through the following five program areas: (i)'~~
27 ~~international trade conferences, (ii)-(b) trade missions, (iii)-(c) mentor programs, (iv)-(d) student work placements and (v)'~~
28 ~~world trade data base.~~

29 2. ~~Advise and make recommendations to businesses, localities and the Commonwealth concerning the promotion of~~
30 ~~exports of Virginia goods and services, especially in the following areas:~~

31 a. ~~Policies, legislation and programs to foster export activity by businesses in the Blue Ridge region;~~

32 b. ~~Identification of Virginia goods and services with the greatest potential for export;~~

33 c. ~~Identification of foreign countries and businesses with the greatest potential to purchase Virginia goods and~~
34 ~~services from businesses in the region;~~

35 d. ~~Strategies for promoting the export of Virginia goods and services;~~

36 e. ~~Means to improve the awareness of businesses in the Blue Ridge region of the opportunities and need for trade in~~
37 ~~international markets;~~

38 f. ~~National and international economic and trade initiatives and trends that potentially impact the export activities of~~
39 ~~businesses in the Blue Ridge region;~~

40 g. ~~Means by which the scope and quality of international education programs in education institutions in the Blue~~
41 ~~Ridge region can be improved; and~~

42 h. ~~Promotion and improvement of educational programs by both public and private entities relating to the means and~~
43 ~~methods of exporting.~~

44 ~~B. The Alliance is authorized to apply for, accept, and expend gifts, grants, or donations from public or private~~
45 ~~sources to enable it to carry out its objectives.~~

46 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
47 A is § 9-145.39:6 and subsection B is 9-145.39:8.

48 ~~§ 9-145.39.7. Staff support; location.~~

49 ~~The Alliance will be staffed by the Virginia Economic Development Partnership. The Alliance's offices will be housed~~
50 ~~in the Export Promotion Division of the Virginia Economic Development Partnership.~~

51 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 2.2-2709.

1 ~~§ 9-145.30.8. Application for and acceptance of gifts and grants.~~

2 ~~The Alliance is authorized to apply for, accept, and expend gifts, grants, or donations from public or private sources~~
3 ~~to enable it to carry out its objectives.~~

4 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2710.

5 Article 4.

6 Boating Advisory Committee.

7 ~~§ 2-151.0.1 2.2-2711. Boating Advisory Committee; purpose; membership; meetings; compensation.~~

8 ~~The Boating Advisory Committee shall~~ A. The Boating Advisory Committee (the "Committee") is established as an
9 advisory committee, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the
10 Board shall be to advise and make recommendations to the Board of Game and Inland Fisheries, the Marine Resources
11 Commission and other state agencies concerning any proposed regulations, policies or other issues which that would directly
12 affect the recreational boating public.

13 B. The Committee shall consist of eleven members to be appointed by the Secretary of Natural Resources, as
14 follows: members shall represent the United States Power Squadrons; the United States Coast Guard Auxiliary; the
15 Chesapeake Bay Yacht Clubs Association; and the general boating public of this Commonwealth.

16 C. Members of the Boating Advisory Committee shall meet at least once a year and serve without compensation but
17 shall be reimbursed for their reasonable and necessary expenses incurred in the performance-discharge of their duties as
18 committee members as provided in § 2.2-2825.

19 **DRAFTING NOTE:** Technical corrections only.

20 Article 5.

21 Debt Capacity Advisory Committee.

22 ~~§ 2-1304.2 2.2-2712. Debt Capacity Advisory Committee created; membership; terms; chairman; compensation;~~
23 ~~staff.~~

24 A. The Debt Capacity Advisory Committee (the "Committee") is hereby created established as an advisory
25 committee, within the meaning of § 2.2-2100, in the executive branch of state government.

26 B. The membership Committee shall consist of the Secretary of Finance; the State Treasurer; the Director of the
27 Department of Planning and Budget; the Auditor of Public Accounts; the Director of the Joint Legislative Audit and Review
28 Commission; and two citizen members who have expertise in financial matters to be appointed by the Governor.

29 ~~The Secretary of Finance shall be the chairperson of the Committee. The Department of Treasury shall serve as~~
30 ~~staff to the Committee.~~

31 C. Of the citizen members appointed for terms beginning July 1, 1994, one shall be appointed for an initial term of
32 three years and the other for an initial term of five years. Successors shall be appointed to serve for terms of four years each.
33 Vacancies occurring other than by expiration of term shall be filled by appointment of the Governor for the remainder of the
34 unexpired term. All appointments shall be subject to confirmation by the General Assembly. Members shall continue to hold
35 office until their successors have been appointed and qualified.

36 D. The Secretary of Finance shall be the chairperson of the Committee.

37 ~~E. All members of the Debt Capacity Advisory Committee shall serve without compensation. Citizen members but~~
38 ~~shall receive necessary and reasonable and necessary expenses incurred in performing the discharge of their duties as~~
39 ~~members of the Debt Capacity Advisory Committee as provided in § 2.2-2825.~~

40 F. The Department of the Treasury shall serve as staff to the Committee.

41 **DRAFTING NOTE:** Technical corrections only.

42 ~~§ 2-1304.3 2.2-2713. Powers and duties of the Committee.~~

43 The Committee shall have the power and duty to:

44 1. Annually review the size and condition of the Commonwealth's tax-supported debt and submit to the Governor
45 and to the General Assembly an estimate of the maximum amount of new tax-supported debt that prudently may be
46 authorized for the next biennium. The estimate shall be advisory and in no way bind the Governor or the General Assembly;

47 2. Annually review the amount and condition of bonds, notes, and other security obligations of the Commonwealth's
48 agencies, institutions, boards, and authorities, for which the (i) Commonwealth has a contingent or limited liability or (ii)
49 General Assembly is permitted to replenish reserve funds if deficiencies occur, and submit to the Governor and the General
50 Assembly an annual report with the Committee's recommendation to ensure the prudent use of such obligations. Such review
51 shall be submitted on or before January 1 of each year; and

1 3. Conduct ongoing reviews of the amount and condition of bonds, notes, and other security obligations of the
2 Commonwealth's agencies, institutions, boards, and authorities not secured by the full faith and credit of the Commonwealth
3 or for which the General Assembly is not permitted to replenish reserve funds, and when appropriate, shall recommend limits
4 on such additional obligations to the Governor and to the General Assembly.

5 **DRAFTING NOTE:** Technical corrections only.

6 ~~§ 2-1-304.4~~ 2.2-2714. Estimated amount of prudent tax-supported debt; affordability considerations.

7 Before January 1 of each year, the Committee shall submit to the Governor and to the General Assembly the
8 Committee's estimate of tax-supported debt ~~which that~~ prudently may be authorized for the next fiscal year, together with a
9 report explaining the basis for the estimate. In developing its annual estimate and in preparing its annual report, the
10 Committee shall, at a minimum, consider:

11 1. The amount of tax-supported debt that, during the next fiscal year and annually for the following nine fiscal years
12 (i) will be outstanding and (ii) has been authorized but not yet issued;

13 2. A projected schedule of affordable, state tax-supported debt authorizations for the next biennium. The
14 assessment of the affordability of the projected authorizations shall include but not be limited to the considerations specified
15 in this section;

16 3. Projected debt-service requirements during the next fiscal year and annually for the following nine fiscal years
17 based upon (i) existing outstanding debt, (ii) previously authorized but unissued debt, and (iii) projected bond authorizations;

18 4. The criteria that recognized bond rating agencies use to judge the quality of issues of Commonwealth bonds;

19 5. Any other factor that is relevant to (i) the ability of the Commonwealth to meet its projected debt service
20 requirements for the next two fiscal years; (ii) the ability of the Commonwealth to support additional debt service in the
21 upcoming biennium; (iii) the requirements of the statewide capital plan; and (iv) the interest rate to be borne by, the credit
22 rating on, or any other factor affecting the marketability of such bonds; and

23 6. The effect of authorizations of new tax-supported debt on each of the considerations of this section.

24 **DRAFTING NOTE:** Technical corrections only.

25 SUBTITLE I.

26 PART E.

27 STATE OFFICERS AND EMPLOYEES.

28 CHAPTER 28.

29 GENERAL PROVISIONS.

30 ~~§ 2-1-30~~ 2.2-2800. ~~Holding office under United States~~ Disability to hold state office.

31 No person shall be capable of holding any office of honor, profit or trust under the Constitution of Virginia, who (i)
32 holds any office or post of profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government
33 of the United States, ~~or who~~; (ii) is in the employment of such government; ~~or who~~ (iii) receives from it in any way any
34 emolument whatever; ~~and the~~. The acceptance of any ~~such~~ office, post, trust, or emolument, or the acceptance of any
35 emolument whatever under ~~such the~~ government of the United States, shall, ipso facto, vacate any office, or post of profit,
36 trust or emolument under the government of ~~this the~~ Commonwealth or under any county, city, or town thereof.

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 2-1-33~~ 2.2-2801. ~~(For effective date - See note) Further Disability to hold state office; exceptions.~~

39 A. Section 2-1-302.2-2800 shall not be construed to prevent:

40 1. ~~To prevent members~~ Members of Congress from acting as visitors of the University of Virginia or the Virginia
41 Military Institute, or from holding offices in the militia;

42 2. ~~To exclude from offices under the state, city or town government or offices under any county, a person to whom a~~
43 ~~pension has been granted by the United States or who receives retirement compensation in any manner from the United~~
44 ~~States, or any person receiving or entitled to receive benefits under the Federal Old Age and Survivors' Insurance System or~~
45 ~~under the Federal Railroad Retirement Act;~~

46 3. ~~To exclude from such office or post, officers or soldiers on account of the recompense they may receive from the~~
47 ~~United States when called out in actual duty;~~

48 4. ~~To prevent~~ 2. United States commissioners or United States census enumerators, supervisors, or the clerks under
49 the supervisor of the United States census, or fourth-class or third-class postmasters, or United States caretakers of the
50 Virginia National Guard of Virginia, from acting as notaries, school board selection commission members, or supervisors, or

from holding any district office under the government of any county, or the office of councilman of any town or city in ~~this the~~ Commonwealth;

~~5. To prevent any 3. Any~~ United States rural mail carrier, or star route mail carrier from being appointed and acting as notary public or holding any county or district office;

~~6. To prevent any 4. Any~~ civilian employee of the United States government from being appointed and acting as notary public;

~~7. To prevent any 5. Any~~ United States commissioners or United States park commissioners from holding the office of commissioner in chancery, bail commissioner, jury commissioner, commissioner of accounts, assistant commissioner of accounts, substitute or assistant civil justice, or assistant judge of a municipal court of any city or assistant judge of a juvenile and domestic relations district court of any city, or judge of any county court or juvenile and domestic relations district court of any county, or the municipal court or court of limited jurisdiction, by whatever name designated, of any incorporated town;

~~8. To prevent any 6. Any~~ person employed by, or holding office or a post of profit, trust or emolument, civil, legislative, executive or judicial, under the government of the United States, from being a member of the militia or holding office therein, or from being a member or director of any board, council, commission or institution of the Commonwealth who serves without compensation except one who serves on a per diem compensation basis;

~~9. To prevent foremen 7. Foremen,~~ quartermen, leading men, artisans, clerks or laborers, employed in any navy yard or naval reservation in Virginia from holding any office under the government of any city, town or county in ~~this the~~ Commonwealth;

~~10. To prevent any 8. Any~~ United States government clerk from holding any office under the government of any town or city; or from being appointed as special policemen for a county by the circuit court or judge thereof as provided for in § ~~15.1-144 15.2-1737~~;

~~11. To prevent any 9. Any~~ person holding an office under the United States government from holding a position under the management and control of the State Board of Health;

~~12. To prevent any 10. Any~~ state federal director of ~~this the~~ Commonwealth in the employment service of the United States Department of Labor from holding the office of Commissioner of Labor of ~~this the~~ Commonwealth;

~~13. To prevent clerks 11. Clerks~~ and employees of the federal government engaged in the departmental service in Washington from acting as school trustees;

~~14. To prevent any 12. Any~~ person, who is otherwise eligible, holding any office or post of profit, trust or emolument, civil or military, legislative, executive or judicial, under the government of the United States, or who is in the employment of such government or receives from it in any way any emolument whatever from serving as a member of the governing body or school board of any county, city or town, or as a member of any public body who is appointed by such governing body or school board, or as an appointive officer or employee of any county, city or town or the school board thereof;

~~15. To prevent game 13. Game~~ management agents of the United States Fish and Wildlife Service or United States deputy game wardens from acting as special game wardens;

~~16. To prevent any 14. Any~~ appointive state or local official or employee from serving, with compensation, on an advisory board of the federal government;

~~17. To prevent any 15. Any~~ state or local law-enforcement officer from serving as a United States law-enforcement officer; however, this ~~provision-subdivision~~ shall not be construed to authorize any law-enforcement officer to receive double compensation;

~~18. To prevent any 16. Any~~ United States law-enforcement officer from serving as a state or local law-enforcement officer when requested by the chief law-enforcement officer of the subject jurisdiction; however, this ~~provision-subdivision~~ shall not be construed to authorize any law-enforcement officer to receive double compensation;

~~19. To prevent any 17. Any~~ attorney for the Commonwealth or assistant attorney for the Commonwealth from serving as or performing the duties of a special assistant United States attorney or assistant United States attorney; however, this ~~provision-subdivision~~ shall not be construed to authorize any attorney for the Commonwealth or assistant attorney for the Commonwealth to receive double compensation;

~~20. To prevent any 18. Any~~ assistant United States attorney from serving as or performing the duties of an assistant attorney for the Commonwealth when requested by the attorney for the Commonwealth of the subject jurisdiction; however, this ~~provision-subdivision~~ shall not be construed to authorize any assistant United States attorney to receive double compensation;

~~21. To prevent any 19. Any~~ elected state or local official from serving, without compensation, on an advisory board of the federal government; however, this ~~provision-subdivision~~ shall not be construed to prohibit reimbursement for actual expenses;

~~22. To prevent sheriffs 20. Sheriffs'~~ deputies from patrolling federal lands pursuant to contracts between federal agencies and local sheriffs;

1 ~~23. To prevent state~~ 21. State judicial officers from performing acts or functions with respect to United States crimir
2 proceedings when such acts or functions are authorized by federal law to be performed by state judicial officers; or

3 ~~24. To prevent any~~ 22. Any member of the Armed Forces of the United States from serving on the Virginia Military
4 Advisory Council.

5 B. Nor shall § 2.2-2800 be construed to exclude:

6 1. A person to whom a pension has been granted by the United States or who receives retirement compensation in
7 any manner from the United States, or any person receiving or entitled to receive benefits under the Federal Old-Age and
8 Survivors' Insurance System or under the Federal Railroad Retirement Act.

9 2. Officers or soldiers on account of the recompense they may receive from the United States when called out in
10 actual duty.

11 **DRAFTING NOTE:** Technical corrections. Existing subdivisions 2 and 3 were relocated to the end of this proposed section
12 as subdivisions B₁ and B₂, respectively.

13 § ~~2.1-34~~ 2.2-2802. Exception as to public officer or employee engaging in war service or called to active duty with
14 the armed forces.

15 No state, county or municipal officer or employee shall forfeit his title to office or position or vacate the same by
16 reason of either engaging in the war service of the United States ~~or~~ when called forth by the Governor pursuant to the
17 provisions of § 44-75.1, or when called to active duty in the armed forces of the United States; ~~and any~~. Any such officer or
18 employee who, voluntarily or otherwise, enters upon such war service or is called to service ~~as provided~~ may notify the officer
19 or body authorized by law to fill vacancies in his office, of such fact, and thereupon be relieved from the duties of his office or
20 position during the period of such service; ~~and the~~. The officer or body authorized to fill vacancies shall designate some
21 suitable person to perform the duties of such office as acting officer during the period the regular officer is engaged in such
22 service, and during such period the acting officer shall be vested with all the powers, authority, rights and duties of the regular
23 officer for whom he is acting.

24 **DRAFTING NOTE:** Technical corrections only.

25 § ~~2.1-32~~ 2.2-2803. Exception as to public officer or employee serving in the Selective Service System of the United
26 States.

27 No state, county or municipal officer or employee shall forfeit or vacate, ~~or be held to have forfeited or vacated,~~
28 office or position, by reason of serving or of having served as an officer, member, agent or employee, or in any other positi.
29 or capacity, in the Selective Service System of the United States.

30 No person shall be ineligible to hold any state, county or municipal office or position by reason of being engaged in
31 service in Virginia in the Selective Service System of the United States.

32 **DRAFTING NOTE:** Technical corrections only.

33 § ~~2.1-32.4~~ 2.2-2804. Selective Service compliance.

34 Any person who has failed to meet the federal requirement to register for the Selective Service shall be ineligible for
35 employment by or service for the Commonwealth, or a political subdivision of the Commonwealth, including all boards and
36 commissions, departments, agencies, institutions, and instrumentalities. A person shall not be denied employment under this
37 section by reason of failure to present himself for and submit to the federal registration requirement if: (i) the requirement for
38 the person to so register has terminated or become inapplicable to the person and (ii) the person shows by a preponderance
39 of the evidence that the failure of the person to register was not a knowing and willful failure to register.

40 **DRAFTING NOTE:** Technical corrections only.

41 § ~~2.1-34~~ 2.2-2805. Members of ~~military or naval reserve force, etc~~ armed forces; reserve forces.

42 No person shall, by reason of being a member of the armed forces of the United States ~~military or naval reserve~~
43 ~~force, whether active or reserved,~~ or by reason of being a retired officer of the armed forces of the United States ~~army, navy~~
44 ~~or marine corps~~ and receiving pay therefor, be disqualified from holding any office under the government of the
45 Commonwealth, or under any county, city, town, magisterial district or school district thereof.

46 **DRAFTING NOTE:** Technical corrections only.

47 § ~~2.1-35~~ 2.2-2806. Holding other office by officers of state institutions.

48 No person serving as a member of the governing board of any institution, supported in whole or in part by funds paid
49 out of the state treasury, or as rector of such institution, or as president or chairman of the governing board thereof, shall
50 ~~hereafter~~ hold, during his term of office, any other office or position with the institution on the board of which he is serving;
51 ~~and if~~. If any such person ~~shall hereafter accept~~ accepts any such office or position, ~~such the~~ acceptance shall ipso far

1 vacate his office as a member of such board. Nothing in this section shall be construed to prevent members of boards of
2 agricultural colleges from doing field or extension work.

3 **DRAFTING NOTE:** Technical corrections only.

4 | § ~~2-1-37.04~~ 2.2-2807. Prohibition against holding two elected offices simultaneously; exceptions.

5 No person shall hold more than one elected office at the same time. This section shall apply to every office elected
6 by the qualified voters of the Commonwealth or any political subdivision or part thereof.

7 The qualification for and taking of the oath for a second elected office by any person shall operate to vacate any
8 other elected office held by him.

9 | ~~This section is enacted pursuant to the powers reserved to the General Assembly by Article II, Section 5 of the~~
10 ~~Constitution of Virginia to define and proscribe improper dual officeholding.~~

11 This section shall not be construed to repeal or affect provisions of law authorizing the sharing of elected offices by
12 two or more jurisdictions. Any person serving in more than one elected office on July 1, 1993, shall be entitled to complete the
13 terms for which he was elected.

14 A person may serve as a Presidential elector while holding any other elective office of the Commonwealth or any
15 political subdivision or part thereof, and this section shall not be construed to prohibit such dual officeholding.

16 **DRAFTING NOTE:** Technical corrections. As enacted, this section contained, in the second paragraph, a restatement of
17 Article II, Section 5 of the Constitution of Virginia, which has been deleted as unnecessary.

18 | § ~~2-1-37~~ 2.2-2808. Acts under color of office; contracts in violation of chapter.

19 All judgments given, and all acts executed or done by any person by authority or color of any office or post, or the
20 deputation thereof, before his removal therefrom, shall be as valid as they would be if this chapter had not been enacted; but
21 every contract or security made or obtained in violation of this chapter shall be void.

22 **DRAFTING NOTE:** Technical corrections only.

23 | § ~~2-1-44.4~~ 2.2-2809. Bonds of certain officers required; condition; form; effect of failure to give bond; additional
24 bonds.

25 Certain officers ~~as may be~~ designated by the Governor shall each give bond with sufficient surety to the
26 Commonwealth. The bond shall be conditioned upon the faithful discharge of the duties of his office in such penalty as ~~may~~
27 ~~be fixed~~ by the Governor.

28 The form of bond shall be prescribed by the Attorney General and when given by such officer shall bear the
29 certification of the Attorney General and the approval of the Governor.

30 If the bond required of such officer is not given ~~and or~~ not deemed to be proper within thirty days after his
31 appointment, the appointment of such officer shall be deemed void and his office shall be deemed vacant.

32 Whenever in the opinion of the Governor it is necessary for the protection of the public interest, that a new bond or a
33 bond in addition to the one already given by such officer, it shall be given within ~~such a~~ reasonable time as prescribed by the
34 Governor shall prescribe after the officer has been notified of the requirement. If the officer ~~shall fail or refuse~~ fails or refuses
35 to give the new or additional bond required, his office shall be deemed vacant.

36 **DRAFTING NOTE:** Technical corrections only.

37 | § ~~2-1-42~~ 2.2-2810. Premiums on such bonds.

38 The Comptroller may pay out of the state treasury the premiums on the surety bonds of all ~~State state~~ officials who
39 are required to be bonded, for a period of more than one year when a discount for advanced payment of ~~such the~~ premiums
40 may be obtained under the rates, ~~rules and and~~ regulations ~~promulgated~~ adopted by the State Corporation Commission
41 according to law.

42 If any such surety bond ~~be is~~ cancelled prior to its expiration, the portion of the premium to be returned shall be
43 calculated on the basis of the regular annual rate of premiums for the duration of the bond as such refunds are prescribed by
44 the rates, ~~rules and and~~ regulations ~~promulgated~~ adopted by the State Corporation Commission according to law.

45 **DRAFTING NOTE:** Technical corrections only.

46 | § ~~2-1-45~~ 2.2-2811. Where bonds filed.

47 The bonds of all officers and employees of all the departments, institutions, agencies, boards, commissions and
48 authorities of the Commonwealth, except the Department of Accounts, shall, after being recorded by the Secretary of the
49 Commonwealth, as required by § 49-12, be transmitted to the Comptroller and be filed in the office of the Comptroller, ~~and~~
50 ~~the~~.

1 The bonds of all officers and employees in the Department of Accounts shall be filed in the office of the Secretary of
2 the Commonwealth; provided, however, that nothing, Nothing in this section shall be construed to apply to notaries public, nor
3 to commissioners of the revenue, attorneys for the Commonwealth, clerks of courts and treasurers of the counties and cities
4 who are covered by other sections of the Code; nor to other similar officers of a purely local character.

5 **DRAFTING NOTE:** Technical corrections only.

6 ~~§ 2.1-20.04~~ 2.2-2812. Employment of personnel.

7 A. Notwithstanding any other provision of law to the contrary, the agency administrator of each executive branch
8 agency, except those that by law are appointed by their respective boards, shall employ ~~such the personnel as may be~~
9 necessary for the proper performance of all responsibilities of their agency subject to ~~Chapter 10 (§ 2.1-110 et seq.)~~ the
10 Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.1 this title and within the limits of appropriations made therefor by law.

11 B. Notwithstanding any other provision of law to the contrary, any employee of an ~~executive branch agency in the~~
12 executive branch of state government, who is promoted within the same agency to a higher position classification and must
13 shall serve a period or periods of time in a probationary status incident to such promotion, and shall be offered to be returned
14 to such employee's previous classified position or an equivalent position for which a vacancy exists if, for any reason other
15 than misconduct, the probationary period of employment is not satisfied or completed.

16 **DRAFTING NOTE:** Technical corrections only.

17 § 2.2-2813. Definitions; compensation and expense payments from state funds for certain executive department
18 services.

19 A. As used in this chapter:

20 "Compensation" means any amount paid in addition to reimbursement for expenses.

21 "Expenses" means all reasonable and necessary expenses incurred in the performance of duties.

22 "Salary" means a fixed compensation for services, paid to part-time and full-time employees on a regular basis.

23 B. Subject to the provisions of subsections C and D, members of boards, commissions, committees, councils and
24 other collegial bodies, who are appointed at the state level, shall be compensated at the rate of fifty dollars per day, unless a
25 different rate of compensation is specified for such members, plus expenses for each day or portion thereof in which the
26 member is engaged in the business of that body.

27 C. Full-time employees of the Commonwealth or any of its local political subdivisions, including full-time faculty
28 members of public institutions of higher education, shall be limited to reimbursement for such employee's expenses.

29 D. No person shall receive total compensation of more than fifty dollars per day for services performed on any one
30 day. Whenever a member attends two or more meetings in a single day, compensation and expenses shall be prorated
31 among the bodies served.

32 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
33 A is existing § 2.1-20.2, subsections B, C and D are existing § 2.1-20.3.

34 ~~§ 2.1-20.5~~ 2.2-2814. (Effective October 1, 1998) How salaries, expenses and other allowances paid; time of
35 payment.

36 The salaries, expenses and other allowances, including mileage, mentioned in this chapter, Chapter 5 ~~1~~ (§ 2.1-38 §
37 2.2-100 et seq.) of this title and Chapter 1.1 (§ 30-19.11 et seq.) of Title 30 shall, except where otherwise specifically
38 provided, be paid out of the state treasury after being duly audited, and the Comptroller shall draw his warrants on the State
39 Treasurer for the payment thereof. Salaries shall be paid every two weeks, semimonthly or monthly, at the discretion of the
40 Comptroller, upon such dates as the Comptroller may prescribe. Expenses shall be paid when they ~~shall have been~~ incurred,
41 and the other allowances shall be paid when the services ~~shall have been~~ rendered or the travel ~~shall have~~ has been
42 performed; ~~but however,~~ members of the General Assembly and others traveling to the seat of government who would be
43 entitled to mileage for traveling home may receive such mileage before going home.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 2.1-20.6~~ 2.2-2815. (Effective October 1, 1998) Increase in salaries.

46 The salary of no state officer or employee payable by the Commonwealth and not specifically fixed by law shall be
47 ~~hereafter~~ increased, or authorized to be increased, without the written consent of the Governor.

48 The salary of no officer or employee of any state institution, board, commission or agency payable by the
49 Commonwealth and not specifically fixed by law, shall be ~~hereafter~~ increased, or authorized to be increased, without prior
50 written authorization of such board or commission and the written consent of the Governor.

Any violation of this section shall constitute misfeasance in office. Nothing herein shall apply to teachers in the elementary and high or secondary schools of the Commonwealth or to employees receiving compensation not in excess of \$100 per month.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-20.7. (Effective October 1, 1998) 2.2-2816.~~ Liability of salary of officer for debt he owes Commonwealth; how enforced; when officer's right to file petition barred.

A. Whenever any officer, other than one whose office is created by the Constitution of ~~this Commonwealth~~ Virginia, is indebted to the Commonwealth for money collected by him or improperly drawn by him or upon his order from the state treasury during his term of office and, after payment of such indebtedness is demanded by the Comptroller, such officer continues in default, the Comptroller shall not issue his warrant for, nor shall the State Treasurer pay, any part of the salary due, or to become due, to such officer until he ~~shall have~~ has made good his default. He may, however, file his petition in the Circuit Court of the City of Richmond against the Comptroller, asserting his claim to his salary, and ~~praying asking~~ for payment thereof. The Comptroller shall answer the petition, and ~~thereupon~~ the proceedings shall be held according to the provisions of Article 18 (§ 8.01-192 et seq.) of Chapter 3 of Title 8.01 and § 8.01-255. If it ~~be is~~ found that the petitioner is indebted ~~as aforesaid~~, the Commonwealth shall be credited on his salary then due with the amount of such indebtedness and if, after such credit is ~~thus~~ given, there is a balance in his favor, judgment ~~therefor~~ shall be rendered ~~in on~~ his behalf. If the indebtedness exceeds his salary then due, judgment for the excess shall be rendered against him and the amount thereof, unless sooner paid, shall be credited to the Commonwealth on his salary thereafter becoming due. The Comptroller shall issue his warrant on the State Treasurer for the payment of any judgment ~~thus~~ rendered ~~in on~~ behalf of the petitioner. In the proceeding by petition the Attorney General shall represent the Commonwealth, unless he ~~be is~~ interested, ~~and if he be interested in which case~~, the Comptroller shall employ other counsel to represent the Commonwealth ~~in the case~~.

B. If ~~such the~~ officer fails to file a petition under this section within twelve months after payment of any installment of his salary is withheld ~~as aforesaid~~, his right to file the ~~same~~ petition shall be barred; ~~and in~~. In such case the Comptroller shall credit the Commonwealth on the officer's salary with the amount of his indebtedness, and make that fact appear on the books of his office.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-20.1-8~~ 2.2-2817. Defense of employees.

Notwithstanding any other law, if any state employee, as defined in this chapter, is investigated for a crime, arrested or indicted, or otherwise prosecuted on any charge, arising out of any act committed in the discharge of his official duties, the state agency, board, or other employer of such state employee, upon a preliminary finding by such agency, board or employer that (i) the employee did not violate any law, ordinance or regulation as a result of the act in question and (ii) the employee will not be terminated from employment as a result of such act, may employ special counsel approved by the Attorney General to defend such person. The reasonable compensation for special counsel employed, pursuant to this section, shall, subject to the approval of the Attorney General, be paid out of the funds appropriated for the state agency, board, or other employer of such state employee.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-20.4~~ 2.2-2818. Health and related insurance for state employees.

A.4. The ~~Governor~~ Department of Human Resource Management shall establish a plan, subject to the approval of the Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The Department of Human Resource Management shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. The Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

~~2-~~Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. a-Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons age forty through forty-nine, and one such mammogram annually to persons age fifty and over and may be limited to a benefit of fifty dollars per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

~~b-~~In order to be considered a screening mammogram for which coverage shall be made available under this section:

1 ~~(1)~~a. The mammogram ~~must~~shall be (i) ordered by a health care practitioner acting within the scope of his licensur
2 and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization physician, (
3 performed by a registered technologist, (iii) interpreted by a qualified radiologist, and (iv) performed under the direction of a
4 person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent
5 examining body. A copy of the mammogram report ~~must~~shall be sent or delivered to the health care practitioner who ordered
6 it;

7 ~~(2)~~b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department
8 of Health in its radiation protection regulations; and

9 ~~(3)~~c. The mammography film shall be retained by the radiologic facility performing the examination in accordance
10 with the American College of Radiology guidelines or state law.

11 2. Include coverage for the treatment of breast cancer by dose-intensive chemotherapy with autologous bone
12 marrow transplants or stem cell support when performed at a clinical program authorized to provide such therapies as a part
13 of clinical trials sponsored by the National Cancer Institute. For persons previously covered under the plan, there shall be no
14 denial of coverage due to the existence of a preexisting condition.

15 3. Include coverage for postpartum services providing inpatient care and a home visit or visits ~~which~~that shall be in
16 accordance with the medical criteria, outlined in the most current version of or an official update to the "Guidelines for
17 Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and
18 Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and
19 Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six
20 months of the publication of such Guidelines or Standards or any official amendment thereto.

21 4. ~~a.~~ Include an appeals process for resolution of written complaints concerning denials or partial denials of claims
22 that shall provide reasonable procedures for resolution of such written complaints and shall be published and disseminated to
23 all covered state employees. ~~Such~~The appeals process shall include a separate expedited emergency appeals procedure
24 ~~which~~that shall provide resolution within one business day of receipt of a complaint concerning situations requiring immediate
25 medical care. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or
26 more impartial health entities to review such decisions. Impartial health entities may include medical peer review
27 organizations and independent utilization review companies. The Department shall adopt regulations to assure that the
28 impartial health entity conducting the reviews has adequate standards, credentials and experience for such review. The
29 impartial health entity shall examine the final denial of claims to determine whether the decision is objective, clinically valid
30 and compatible with established principles of health care. The decision of the impartial health entity shall (i) be in writing, '
31 contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding
32 consistent with law and policy.

33 ~~b.~~ Prior to assigning an appeal to an impartial health entity, the Department shall verify that the impartial health entity
34 conducting the review of a denial of claims has no relationship or association with (i) the covered employee, (ii) the treating
35 health care provider, or any of its employees or affiliates, (iii) the medical care facility at which the covered service would be
36 provided, or any of its employees or affiliates, or (iv) the development or manufacture of the drug, device, procedure or other
37 therapy ~~which~~that is the subject of the final denial of a claim. The impartial health entity shall not be a subsidiary of, nor
38 owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care
39 providers. There shall be no liability on the part of and no cause of action shall arise against any officer or employee of an
40 impartial health entity for any actions taken or not taken or statements made by such officer or employee in good faith in the
41 performance of his powers and duties.

42 5. Include coverage for early intervention services. For purposes of this section, "early intervention services" means
43 medically necessary speech and language therapy, occupational therapy, physical therapy and assistive technology services
44 and devices for dependents from birth to age three who are certified by the Department of Mental Health, Mental Retardation
45 and Substance Abuse Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20
46 U.S.C. § 1471 et seq.). Medically necessary early intervention services for the population certified by the Department of
47 Mental Health, Mental Retardation and Substance Abuse Services shall mean those services designed to help an individual
48 attain or retain the capability to function age-appropriately within his environment, and shall include services ~~which~~that
49 enhance functional ability without effecting a cure.

50 For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a
51 preexisting condition. The cost of early intervention services shall not be applied to any contractual provision limiting the total
52 amount of coverage paid by the insurer to or on behalf of the insured during the insured's lifetime.

53 6. Include coverage for prescription drugs and devices approved by the United States Food and Drug Administration
54 for use as contraceptives.

55 7. Not deny coverage for any drug approved by the United States Food and Drug Administration for use in the
56 treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for
57 the treatment of the specific type of cancer for which the drug has been prescribed, if the drug has been recognized as safe
58 and effective for treatment of that specific type of cancer in one of the standard reference compendia.

1 8. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by
2 the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the
3 covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

4 9. Include coverage for equipment, supplies and outpatient self-management training and education, including
5 medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and
6 noninsulin-using diabetes if prescribed by a healthcare professional legally authorized to prescribe such items under law. To
7 qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by
8 a certified, registered or licensed health care professional.

9 10. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery"
10 means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii)
11 following a mastectomy performed for breast cancer to reestablish symmetry between the two breasts. For persons previously
12 covered under the plan, there ~~may~~ shall be no denial of coverage due to preexisting conditions.

13 11. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing
14 performed by any FDA-approved gynecologic cytology screening technologies.

15 12. Include coverage providing a minimum stay in the hospital of not less than forty-eight hours for a patient
16 following a radical or modified radical mastectomy and twenty-four hours of inpatient care following a total mastectomy or a
17 partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed
18 as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that
19 a shorter period of hospital stay is appropriate.

20 13. Include coverage (i) to persons age fifty and over and (ii) to persons age forty and over who are at high risk for
21 prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a
22 twelve-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the
23 purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific
24 antigen.

25 14. Permit any individual covered under the plan direct access to the health care services of a participating specialist
26 (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure
27 by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive
28 a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the
29 individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most
30 appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this
31 subdivision, "special condition" means a condition or disease that is (i) life-threatening, degenerative, or disabling and (ii)
32 requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such
33 specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may
34 authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary
35 care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual
36 who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such
37 specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the
38 specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a
39 specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written
40 notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a
41 description of the health care services rendered at the time of the visit.

42 15. ~~a-~~Include provisions allowing employees to continue receiving health care services for a period of up to ninety
43 days from the date of the primary care physicians notice of termination from any of the plan's provider panels.~~b-~~ The plan
44 shall notify any provider at least ninety days prior to the date of termination of the provider, except when the provider is
45 terminated for cause.

46 ~~c-~~For a period of at least ninety days from the date of the notice of a provider's termination from any of the plan's
47 provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health
48 care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the
49 notice of termination and (ii) request to continue receiving health care services from the provider.

50 ~~d-~~Notwithstanding the provisions of subdivision 1, any provider shall be permitted by the plan to continue rendering
51 health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's
52 termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's
53 option, continue through the provision of postpartum care directly related to the delivery.

54 ~~e-~~Notwithstanding the provisions of subdivision 1, any provider shall be permitted ~~by the plan~~ to continue rendering
55 health services to any covered employee who is determined to be terminally ill (as defined under § 1861 (dd) (3) (A) of the
56 Social Security Act) at the time of a provider's termination of participation, except when a provider is terminated for cause.
57 Such treatment shall, at the covered employee's option, continue for the remainder of the employee's life for care directly
58 related to the treatment of the terminal illness.

1 | f--A provider who continues to render health care services pursuant to this subdivision shall be reimbursed in
2 | accordance with the carrier's agreement with such provider existing immediately before the provider's termination of
3 | participation.

4 | 16. a--Include coverage for patient costs incurred during participation in clinical trials for treatment studies on cancer,
5 | including ovarian cancer trials.

6 | b--The reimbursement for patient costs incurred during participation in clinical trials for treatment studies on cancer
7 | shall be determined in the same manner as reimbursement is determined for other medical and surgical procedures. Such
8 | coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less
9 | favorable than for physical illness generally.

10 | e--For purposes of this subdivision:

11 | "Cooperative group" means a formal network of facilities that collaborate on research projects and have an
12 | established NIH-approved peer review program operating within the group. "Cooperative group" includes (i) the National
13 | Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute Community Clinical Oncology Program.

14 | "FDA" means the Federal Food and Drug Administration.

15 | "Multiple project assurance contract" means a contract between an institution and the federal Department of Health
16 | and Human Services that defines the relationship of the institution to the federal Department of Health and Human Services
17 | and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human
18 | subjects.

19 | "NCI" means the National Cancer Institute.

20 | "NIH" means the National Institutes of Health.

21 | "Patient" means a person covered under the plan established pursuant to this section.

22 | "Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the
23 | treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the cost of nonhealth
24 | care services that a patient may be required to receive as a result of the treatment being provided for purposes of a clinical
25 | trial, (ii) costs associated with managing the research associated with the clinical trial, or (iii) the cost of the investigational
26 | drug or device.

27 | d--Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be provided if the
28 | treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such treatment may, however, be provided on
29 | a case-by-case basis if the treatment is being provided in a Phase I clinical trial.

30 | e--The treatment described in ~~subdivision d~~ the previous paragraph shall be provided by a clinical trial approved by:

31 | (1) ~~a~~ a. The National Cancer Institute;

32 | (2) ~~b~~ b. An NCI cooperative group or an NCI center;

33 | (3) ~~c~~ c. The FDA in the form of an investigational new drug application;

34 | (4) ~~d~~ d. The federal Department of Veterans Affairs; or

35 | (5) ~~e~~ e. An institutional review board of an institution in the Commonwealth that has a multiple project assurance
36 | contract approved by the Office of Protection from Research Risks of the NCI.

37 | f--The facility and personnel providing the treatment shall be capable of doing so by virtue of their experience,
38 | training, and expertise.

39 | g--Coverage under this section shall apply only if:

40 | (1) There is no clearly superior, noninvestigational treatment alternative;

41 | (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as
42 | effective as the noninvestigational alternative; and

43 | (3) The patient and the physician or health care provider who provides services to the patient under the plan
44 | conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures established by the
45 | plan.

46 | 17. Include coverage providing a minimum stay in the hospital of not less than twenty-three hours for a covered
47 | employee following a laparoscopy-assisted vaginal hysterectomy and forty-eight hours for a covered employee following a
48 | vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines. Nothing in this subdivision shall
49 | be construed as requiring the provision of the total hours referenced when the attending physician, in consultation with the
50 | covered employee, determines that a shorter hospital stay is appropriate.

51 | 18. (Effective until July 1, 2004) a--Include coverage for biologically based mental illness.

52 | b--For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused
53 | by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's
54 | functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and

children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

☞ Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

☞ Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

☞ In no case, however, shall coverage for mental disorders provided pursuant to this section be diminished or reduced below the coverage in effect for such disorders on January 1, 1999.

19. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

20. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and their beneficiaries ~~thereof~~. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopoeia Dispensing Information.

"State employee" means state employee as defined in § 51.1-124.3, employee as defined in § 51.1-201, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth, interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth University Health System Authority as provided in § 23-50.16:24.

E. Provisions shall be made for retired employees to obtain coverage under the above plan, including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Human Resource Management ~~which that~~ utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

1 G. The plan ~~established by the Department~~ shall include, in each planning district, at least two health cover-
2 options, each sponsored by unrelated entities. In each planning district that does not have an available health cover
3 alternative, the Department shall voluntarily enter into negotiations at any time with any health coverage provider who se.
4 to provide coverage under the plan. This section shall not apply to any state agency authorized by the Department to
5 establish and administer its own health insurance coverage plan separate from the plan established by the Department.

6 H. ~~4-~~Any self-insured group health insurance plan established by the Department of Personnel that includes
7 coverage for prescription drugs on an outpatient basis may apply a formulary to the prescription drug benefits provided by the
8 plan if the formulary is developed, reviewed at least annually, and updated as necessary in consultation with and with the
9 approval of a pharmacy and therapeutics committee, a majority of whose members are actively practicing licensed (i)
10 pharmacists, (ii) physicians, and (iii) other health care providers.

11 ~~2-~~If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to obtain,
12 without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a specific, medically
13 necessary nonformulary prescription drug if, after reasonable investigation and consultation with the prescribing physician,
14 the formulary drug is determined to be an inappropriate therapy for the medical condition of the person. The plan shall act on
15 such requests within one business day of receipt of the request.

16 I. Any plan established ~~by the Department of Human Resource Management~~ in accordance with this section
17 requiring preauthorization prior to rendering medical treatment shall have personnel available to provide authorization at all
18 times when such preauthorization is required.

19 J. Any plan established ~~by the Department of Human Resource Management~~ in accordance with this section shall
20 provide to all covered employees written notice of any benefit reductions during the contract period at least thirty days before
21 such reductions become effective.

22 K. No contract between a provider and any plan established ~~by the Department of Human Resource Management~~ in
23 accordance with this section shall include provisions ~~which that~~ require a health care provider or health care provider group to
24 deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with
25 respect to a covered employee with similar medical conditions.

26 L. ~~4-~~The Department of Human Resource Management shall appoint an Ombudsman to promote and protect the
27 interests of covered employees under any state employee's health plan.

28 ~~2-~~The Ombudsman shall:

29 a~~1~~. Assist covered employees in understanding their rights and the processes available to them according to '
30 state health plan.

31 b~~2~~. Answer inquiries from covered employees by telephone and electronic mail.

32 c~~3~~. Provide to covered employees information concerning the state health plans.

33 d~~4~~. Develop information on the types of health plans available, including benefits and complaint procedures and
34 appeals.

35 e~~5~~. Make available, either separately or through an existing Internet web site utilized by the Department of Human
36 Resource Management, information as set forth in subdivision d~~4~~ and such additional information as he deems appropriate.

37 f~~6~~. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of
38 each such matter.

39 g~~7~~. Upon request, assist covered employees in using the procedures and processes available to them from their
40 health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered
41 employee, which shall be done only with that employee's express written consent. The confidentiality of any such medical
42 records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

43 h~~8~~. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered
44 employees receive timely responses from the Ombudsman or his representatives to the inquiries.

45 i~~9~~. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over
46 insurance and over health and the Joint Commission on Health Care by December 1 of each year.

47 M. ~~4-~~The plan established ~~by the Department of Human Resource Management~~ in accordance with this section
48 shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by
49 a covered employee.

50 ~~2-~~For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage
51 reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered
52 employee notifies the plan in writing of the assignment.

53 N. Any group health insurance plan established by the Department of Human Resource Management that contains
54 a coordination of benefits provision shall provide written notification to any eligible employee as a prominent part of its
55 enrollment materials that if such eligible employee is covered under another group accident and sickness insurance policv,
56 group accident and sickness subscription contract, or group health care plan for health care services, that insurance p

1 subscription contract or health care plan may have primary responsibility for the covered expenses of other family members
2 enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other
3 coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which
4 the eligible enrollee may verify from the plan which ~~that~~ coverage would have primary responsibility for the covered expenses
5 of each family member.

6 **DRAFTING NOTE:** Technical corrections only.

7 ~~§ 2.1-20.1-02. Health insurance program for employees of local governments, local officers, teachers, etc.;~~
8 ~~definitions.~~

9 ~~A. The Department of Human Resource Management shall establish a plan or plans subject to the approval of the~~
10 ~~Governor, for providing health insurance coverage for employees of local governments, local officers, teachers, and retirees,~~
11 ~~and the dependents of such employees, officers, teachers and retirees. The plan or plans shall be rated separately from the~~
12 ~~plan established pursuant to § 2.1-20.1 to provide health and related insurance coverage for state employees. Participation in~~
13 ~~such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing body, or by the local~~
14 ~~school board in the case of teachers, and (iii) subject to regulations promulgated by the Department.~~

15 ~~B. The plan established by the Department shall satisfy the requirements of the Virginia Public Procurement Act (§~~
16 ~~11-35 et seq.), shall consist of a flexible benefits structure which permits the creation of multiple plans of benefits and may~~
17 ~~provide for separate rating groups based upon criteria established by the Department. The Department shall promulgate~~
18 ~~regulations regarding the establishment of such a plan or plans, including, but not limited to, requirements for eligibility,~~
19 ~~participation, access and egress, mandatory employer contributions and financial reserves, and the administration of the plan~~
20 ~~or plans. The Department may engage the services of other professional advisers and vendors as necessary for the prudent~~
21 ~~administration of the plan or plans. The assets of the plan or plans, together with all appropriations, premiums and other~~
22 ~~payments, shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost~~
23 ~~containment programs and administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held~~
24 ~~for the sole benefit of the employee health insurance fund. The fund shall be held in the state treasury. Any interest on~~
25 ~~unused balances in the fund shall revert back to the credit of the fund. The State Treasurer shall charge reasonable fees to~~
26 ~~recover the actual costs of investing the assets of the plan or plans.~~

27 ~~In establishing the participation requirements, the Department may provide that those employees, officers, and~~
28 ~~teachers without access to employer-sponsored health care coverage may participate in the plan. It shall collect all premiums~~
29 ~~directly from the employers of such employees, officers, and teachers.~~

30 ~~C. In the administration of the plan or plans, the Department shall take into consideration the recommendations~~
31 ~~made by an advisory committee. Such advisory committee shall be composed of at least five members to be appointed by the~~
32 ~~Governor, with at least one member representing each of the following groups: local governments, local officers, local school~~
33 ~~boards, teachers, and retirees. Committee members shall be reimbursed for the expenses incurred by them as members of~~
34 ~~the committee but shall not be otherwise compensated for their services. The terms of service for the advisory committee~~
35 ~~members shall be established by the Department.~~

36 ~~D. In the event that the financial reserves of the plan fall to an unacceptably low level as determined by the~~
37 ~~Department, it shall have the authority to secure from the State Treasurer a loan sufficient to raise the reserve level to one~~
38 ~~which is considered adequate. The State Treasurer is hereby authorized to make such a loan, to be repaid on such terms and~~
39 ~~conditions as established by him.~~

40 ~~E. For the purposes of this section, the following terms shall have the meanings indicated:~~

41 ~~"Employees of local governments" shall include all officers and employees of the governing body of any county, city~~
42 ~~or town, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any~~
43 ~~commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or~~
44 ~~powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished~~
45 ~~from §§ 15.1-20, 15.1-21, or similar statutes, provided that the officers and employees of a social services department,~~
46 ~~welfare board, mental health, mental retardation and substance abuse services board, or library board of a county, city, or~~
47 ~~town shall be deemed to be employees of local government.~~

48 ~~"Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of~~
49 ~~a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.~~

50 ~~"Teacher" means any employee of a county, city, or other local public school board.~~

51 ~~F. Any stock and cash distributed to the Commonwealth pursuant to the conversion of Blue Cross and Blue Shield of~~
52 ~~Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a stock corporation known as~~
53 ~~Trigon Healthcare, Inc., that is directly attributable to the health insurance plan or plans established for employees of local~~
54 ~~governments, local officers, teachers, and retirees, and the dependents of such employees, officers, teachers and retirees,~~
55 ~~pursuant to subsection A (hereinafter referred to as the "local choice plan distribution") shall be deposited in the state treasury~~
56 ~~to the credit of the employee health insurance fund to be used as provided in this subsection. Such distribution shall not~~
57 ~~include any cash paid by Blue Cross and Blue Shield of Virginia or its successor to the Commonwealth in connection with~~

1 such conversion which was assumed as general fund revenue in Chapter 012 of the 1996 Acts of Assembly. All other stock
2 and cash received by the Commonwealth pursuant to such conversion of Blue Cross and Blue Shield of Virginia to a stock
3 corporation shall be allocated as provided in subsection B of § 2.2-284.

4 ~~The State Treasurer shall sell any stock received pursuant to the local choice plan distribution as soon as~~
5 ~~practicable following its receipt, subject to any lockup period or other restriction on its sale, and the proceeds therefrom shall~~
6 ~~be deposited in the state treasury to the credit of the employee health insurance fund. Notwithstanding any other provision of~~
7 ~~law to the contrary, the State Treasurer shall not be liable for any losses incurred from the sale or distribution of such stock.~~

8 ~~The Department of Human Resource Management shall use any stock, or the proceeds therefrom, and cash~~
9 ~~received pursuant to the local choice plan distribution to reduce premiums payable by employers participating in a plan or~~
10 ~~plans established pursuant to subsection A. In setting health insurance premiums for such plan or plans, the Director of the~~
11 ~~Department of Human Resource Management shall allocate the value of such stock, or proceeds therefrom, and cash among~~
12 ~~each participating employer. Such allocation shall be based on the proportionate amounts of premiums previously paid by~~
13 ~~each participating employer. If a participating employer withdraws from such plan or plans before all of the value allocated to~~
14 ~~it has been used for the benefit of the participating employer, the remaining value shall be transferred to such participating~~
15 ~~employer upon his withdrawal.~~

16 **DRAFTING NOTE:** Technical corrections. This section has been moved to Part C of Subtitle I in Chapter 12, Department of
17 Human Resource Management, since it deals with health insurance programs for local government employees and teachers
18 and not state employees.

19 ~~§ 2.1-20.1:03 2.2-2819.~~ Purchase of continued health insurance coverage by the surviving spouse and any
20 dependents of an active or retired state employee.

21 A. The surviving spouse and any dependents of an active state employee or a retired state employee ~~shall be~~
22 ~~entitled may,~~ upon proper application to the Department of Human Resource Management, ~~to purchase~~ continued health
23 insurance coverage on the following conditions: (i) on the date of death, the state employee participated in a health insurance
24 plan administered by the Department of Human Resource Management pursuant to § 2.1-20.1:2 2.2-2818 or § 2.1-20.1:02 2.2-
25 1204 and (ii) on the date of the deceased's death, the applicants were included in the health insurance plan in condition (i) of
26 this subsection. The health insurance plans administered by the Department of Human Resource Management pursuant to §
27 2.1-20.1:2 2.2-2818 or § 2.1-20.1:022 2.2-1204 shall provide means whereby coverage for the spouse and dependents of active
28 or retired state employees may be purchased.

29 B. Any application to purchase continued health insurance coverage hereunder shall be made in writing to the
30 Department of Human Resource Management within sixty days of the date of the deceased's death. The time for making
31 application may be extended by the Department for good cause shown.

32 C. In addition to any necessary information requested by the Department of Human Resource Management, the
33 application shall state whether conditions (i) and (ii) set forth in subsection A ~~of this section~~ have been met. If the Department
34 states that such conditions have not been met, the Department shall conduct an informal fact-finding conference or
35 consultation with the applicant pursuant to § 9-6.14:12 2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.). Upon
36 scheduling the conference or consultation, the provisions of the Administrative Process Act (~~§ 9-6.14:1 et seq.~~) shall apply
37 thereafter.

38 D. Upon payment of any required premiums, coverage shall automatically be extended during the period for making
39 application and shall be effective retroactive to the date of the deceased's death.

40 E. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall be subject to
41 administration by the Department of Human Resource Management. The Department may increase the cost of coverage
42 consistent with its administration of health insurance plans under § 2.1-20.1 2.2-2818 or § 2.1-20.1:02 2.2-1204.

43 F. For the surviving spouse, continued health insurance coverage purchased hereunder shall automatically
44 terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii) alternate health insurance coverage being
45 obtained, or (iv) any applicable condition outlined in the policies and procedures of the Department of Human Resource
46 Management governing health insurance plans administered pursuant to § 2.1-20.1:2 2.2-2818 or § 2.1-20.1:022 2.2-1204.

47 G. For any surviving dependents, continued health insurance coverage purchased hereunder shall automatically
48 terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate health insurance coverage being
49 obtained; (iv) attaining the age of twenty-one, unless the dependent is (a) a full-time college student, in which event coverage
50 shall not terminate until such dependent has either attained the age of twenty-five or until such time as the dependent ceases
51 to be a full-time college student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage
52 shall not terminate until three months following cessation of the disability; or (v) any applicable condition outlined in the
53 policies and procedures of the Department of Human Resource Management governing health insurance plans administered
54 pursuant to § 2.1-20.1:2 2.2-2818 or § 2.1-20.1:02 2.2-1204.

55 **DRAFTING NOTE:** Technical corrections only.

2 § 2.1-20.1:04. Purchase of continued health insurance coverage by the surviving spouse and any dependents of an
3 active or retired local law enforcement officer, firefighter, etc.

4 A. The surviving spouse and any dependents of an active or retired law enforcement officer of any county, city, or
5 town of this Commonwealth; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or
6 deputy city sergeant of the City of Richmond; a member of any fire company or department or rescue squad which has been
7 recognized by an ordinance or a resolution of the governing body of any county, city, or town of this Commonwealth as an
8 integral part of the official safety program of such county, city or town; or a member of an emergency medical services
9 department, whose death occurs as the direct or proximate result of the performance of his duty, including the presumptions
10 under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, shall be entitled, upon proper application to the Department of Human
11 Resource Management, to purchase continued health insurance coverage on the following conditions: (i) on the date of
12 death, the deceased participated in a health insurance plan administered by the Department of Human Resource
13 Management pursuant to § 2.1-20.1:02 and (ii) on the date of the deceased's death, the applicants were included in the
14 health insurance plan in condition (i) of this subsection. The health insurance plan administered by the Department of Human
15 Resource Management pursuant to § 2.1-20.1:02 shall provide means whereby coverage for the spouse and any dependents
16 of the deceased as provided in this section may be purchased. The spouse and any dependents of the deceased who
17 purchase continued health insurance coverage pursuant to this section shall pay the same portion of the applicable premium
18 as active employees pay for the same class of coverage, and the local government employer that employed the deceased
19 shall pay the remaining portion of the premium.

20 B. Any application to purchase continued health insurance coverage hereunder shall be made in writing to the
21 Department of Human Resource Management within sixty days of the date of the deceased's death. The time for making
22 application may be extended by the Department for good cause shown.

23 C. In addition to any necessary information requested by the Department of Human Resource Management, the
24 application shall state whether conditions (i) and (ii) set forth in subsection A of this section have been met. If the Department
25 states that such conditions have not been met, the Department shall conduct an informal fact-finding conference or
26 consultation with the applicant pursuant to § 0-6.14:11 of the Administrative Process Act. Upon scheduling the conference or
27 consultation, the provisions of the Administrative Process Act (§ 0-6.14:1 et seq.) shall apply thereafter.

28 D. Upon payment of any required premiums, coverage shall automatically be extended during the period for making
29 application and shall be effective retroactive to the date of the deceased's death.

30 E. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall be subject to
31 administration by the Department of Human Resource Management. The Department may increase the cost of coverage
32 consistent with its administration of health insurance plans under § 2.1-20.1:02. However, at no time shall a surviving spouse
33 or dependents pay more for continued health insurance coverage than active employees pay under the same plan for the
34 same class of coverage.

35 F. For the surviving spouse, continued health insurance coverage purchased hereunder shall automatically
36 terminate upon occurrence of any of the following: (i) death; (ii) remarriage; (iii) alternate health insurance coverage being
37 obtained; or (iv) any applicable condition outlined in the policies and procedures of the Department of Human Resource
38 Management governing health insurance plans administered pursuant to § 2.1-20.1:02.

39 G. For any surviving dependents, continued health insurance coverage purchased hereunder shall automatically
40 terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate health insurance coverage being
41 obtained; (iv) attaining the age of twenty-one, unless the dependent is (a) a full-time college student, in which event coverage
42 shall not terminate until such dependent has either attained the age of twenty-five or until such time as the dependent ceases
43 to be a full-time college student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage
44 shall not terminate until three months following cessation of the disability; or (v) any applicable condition outlined in the
45 policies and procedures of the Department of Human Resource Management governing health insurance plans administered
46 pursuant to § 2.1-20.1:02.

46 **DRAFTING NOTE:** Technical corrections. This section has been moved to Part C of Subtitle I in Chapter 12, Department of
47 Human Resource Management, since it deals with health insurance programs for local government employees and teachers
48 and not state employees.

49 § 2.1-20.1:05. Purchase of continued health insurance coverage by the surviving spouse and any dependents of an
50 active local law enforcement officer, firefighter, etc.

51 A. For the purposes of this section, "plan sponsor" means a local government employer which has established a
52 plan of health insurance coverage for its employees, retirees and dependents of employees as are described in subsection B.

53 B. The surviving spouse and any dependents of an active law enforcement officer of any county, city, or town of this
54 Commonwealth; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city
55 sergeant of the City of Richmond; a member of any fire company or department or rescue squad which has been recognized
56 by an ordinance or a resolution of the governing body of any county, city, or town of this Commonwealth as an integral part
57 of the official safety program of such county, city or town; or a member of an emergency medical services department; whose
58 death occurs as the direct or proximate result of the performance of his duty shall be entitled, upon proper application to the

1 appropriate plan sponsor, to purchase continued health insurance coverage on the following conditions: (i) on the date
2 death, the deceased participated in a health insurance plan administered by the plan sponsor and (ii) on the date of
3 deceased's death, the applicants were included in the health insurance plan in condition (i) of this subsection. The health
4 insurance plan administered by the plan sponsor shall provide means whereby coverage for the spouse and any dependents
5 of the deceased as provided in this section may be purchased.

6 C. Any application to purchase continued health insurance coverage hereunder shall be made in writing to the plan
7 sponsor within sixty days of the date of the deceased's death. The time for making application may be extended by the plan
8 sponsor for good cause shown.

9 D. In addition to any necessary information requested by the plan sponsor, the application shall state whether
10 conditions (i) and (ii) set forth in subsection B of this section have been met. If the plan sponsor states that such conditions
11 have not been met, the plan sponsor, notwithstanding the provisions of § 9-6.14:4.1, shall conduct an informal fact-finding
12 conference or consultation with the applicant pursuant to § 9-6.14:11 of the Administrative Process Act. Upon scheduling the
13 conference or consultation, the provisions of the local government's grievance procedure for nonprobationary, permanent
14 employees shall apply thereafter.

15 E. Upon payment of any required premiums, coverage shall automatically be extended during the period for making
16 application and shall be effective retroactive to the date of the deceased's death.

17 F. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall be subject to
18 administration by the plan sponsor. The plan sponsor may increase the cost of coverage consistent with its administration of
19 health insurance plans under § 2-1-20.1:02. However, at no time shall the surviving spouse or dependents pay more for
20 continued health insurance coverage than the active employee rate under the same plan for the same class of coverage.

21 G. For the surviving spouse, continued health insurance coverage purchased hereunder shall automatically
22 terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii) alternate health insurance coverage being
23 obtained, or (iv) any applicable condition outlined in the policies and procedures of the plan sponsor governing health
24 insurance plans administered for its active employees.

25 H. For any surviving dependents, continued health insurance coverage purchased hereunder shall automatically
26 terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate health insurance coverage being
27 obtained; (iv) attaining the age of twenty one, unless the dependent is (a) a full-time college student, in which event coverage
28 shall not terminate until such dependent has either attained the age of twenty five or until such time as the dependent ceases
29 to be a full-time college student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage
30 shall not terminate until three months following cessation of the disability; or (v) any applicable condition outlined in
31 policies and procedures of the plan sponsor governing health insurance plans administered for its active employees.

32 **DRAFTING NOTE:** Technical corrections. This section has been moved to Part C of Subtitle I in Chapter 12, Department of
33 Human Resource Management, since it deals with health insurance programs for local law enforcement officers and fire
34 fighters and not state employees.

35 ~~§ 2-1-20.1:06~~ 2.2-2820. Purchase of health insurance coverage by part-time state employees.

36 A. Any part-time state employee employed by the Commonwealth and working twenty or more hours per week for a
37 period of at least six months may, upon proper application to the Department of Human Resource Management (the
38 Department), to purchase health insurance coverage for himself through a health insurance plan administered by the
39 Department. This plan for part-time employees may differ from the other plans sponsored by the Department for state
40 employees and shall be exempt from all mandates contained in ~~§ 2-1-20.1:2.2-2818~~.

41 B. Applications to purchase health insurance coverage ~~hereunder~~ under this section shall be made on an application
42 form prescribed by the Department. In addition to his application, the applicant shall provide any necessary supporting
43 documents requested by the Department.

44 C. Upon payment of the required premiums, coverage shall be effective retroactive to the date of the application.

45 D. The terms, conditions, and costs of health insurance coverage purchased ~~hereunder~~ under this section shall be
46 subject to administration by the Department. The Department may increase the cost of coverage consistent with its
47 administration of the health insurance plans under ~~§ 2-1-20.1:2.2-2818~~.

48 E. Health insurance coverage purchased ~~hereunder~~ under this section shall automatically terminate upon the
49 occurrence of any of the following: (i) the applicant's death, (ii) alternate health insurance coverage being obtained by the
50 applicant, (iii) the applicant's separation from state service, or (iv) any applicable condition outlined in the policies and
51 procedures of the Department governing its administration of health insurance plans pursuant to ~~§ 2-1-20.1:2.2-2818~~.

52 **DRAFTING NOTE:** Technical corrections only.

53 ~~§ 2-1-114.5:022.2-2821~~. Workers' compensation insurance plan for state employees ~~continued trust fund for~~
54 payment of claims.

1 A. The Workers' Compensation Insurance Program (the Program) established under former § 2.1-526.10 and
2 administered by the Department of General Services through its Division of Risk Management is hereby continued and
3 transferred to the Department of Human Resource Management.

4 B. ~~The Program's insurance program~~ Program shall be established through a program of self-insurance, purchased
5 insurance or a combination of self-insurance and purchased insurance that is determined to be the most cost effective on a
6 statewide basis and will be of less cost to the Commonwealth than the aggregate of individual agency policies. If the
7 Department of Human Resource Management is informed by the Office of the Attorney General that it will not provide a
8 defense due to a conflict or other appropriate reason, the Department shall provide for payment of attorneys' fees and
9 expenses incurred in defending workers' compensation claims against the Commonwealth, its agencies and institutions.

10 C. The Program shall provide for the establishment of a trust fund for the payment of claims covered under the
11 Program. The funds shall be invested as provided in ~~§ 2.1-185~~ 2.2-1806, and interest shall be added to the fund as earned.
12 The trust fund shall also provide for payment of administrative costs, contractual costs, and other necessary expenses related
13 to the administration of ~~such~~ the Program.

14 D. The Program shall be submitted to the Governor for approval prior to implementation.

15 E. The Department of Human Resource Management may confer with the proper officials or employees of all
16 agencies and institutions of the Commonwealth for the purpose of providing loss prevention programs. The Department may
17 seek the assistance of state agencies, risk management consulting companies, loss prevention engineering companies, and
18 their representatives in devising means by which causes of loss may be reduced or eliminated.

19 F. Information contained in investigative reports of any state or local police department, sheriff's office, fire
20 department or fire marshal relevant to the Program established pursuant to this section shall be made available upon request
21 by the Department. Information so requested shall be furnished within a reasonable time, not to exceed thirty days.

22 **DRAFTING NOTE:** Technical corrections only.

23 ~~§ 2.1-20.4~~ 2.2-2822. Ownership of patents and copyrights developed by state employees.

24 Patents, copyrights or materials ~~which that~~ were potentially patentable or copyrightable developed by a state
25 employee during working hours or within the scope of his employment or when using state-owned or state-controlled facilities
26 shall be the property of the Commonwealth ~~of Virginia~~. The Governor shall set such policies as he deems necessary to
27 implement this ~~provision section~~.

28 This ~~provision section~~ shall not apply to employees of ~~state supported public~~ institutions of higher education who
29 shall be subject to the patent and copyright policies of the institution employing them.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2.1-20.8~~ 2.2-2823. ~~(Effective October 1, 1998)~~ Traveling expenses on state business; public or private
32 transportation.

33 A. Pursuant to ~~§ 2.1-20.10~~ 2.2-2825, any person traveling on state business shall be entitled to reimbursement for
34 certain actual expenses as are necessary and ordinarily incidental to ~~such~~ travel. If transportation is by public means,
35 reimbursement shall be at the actual cost thereof. If transportation is by private means, reimbursement shall be at the rate as
36 specified in the current general appropriation act ~~of the Commonwealth~~.

37 B. Mileage allowed under subsection A or § 30-19.15 shall be construed to include all costs incident to the
38 maintenance and operation of private transportation except storage and parking fees, turnpike, tunnel, ferry and bridge tolls.

39 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
40 A is § 2.1-20.8 and subsection B is § 2.1-20.12.

41
42 ~~§ 2.1-20.9~~ 2.2-2824. ~~(Effective October 1, 1998)~~ Monitoring travel expenses while on state business.

43 It shall be the duty of the head of each state agency, commission, or board, or his designee, or any other official
44 granted supervisory control for the expending of state funds to ~~scrutinize~~ examine all applications for the reimbursement of
45 personal funds expended by any employee of such agency, commission, or board for travel while conducting official business
46 for state government. All such expenditures shall be necessary and reasonable for the efficient and effective operation of the
47 agency, commission or board.

48 **DRAFTING NOTE:** Technical corrections only.

49 ~~§ 2.1-20.10~~ 2.2-2825. ~~(Effective October 1, 1998)~~ Reimbursement for certain travel expenditures; restrictions on
50 reimbursement.

51 Persons conducting official business of the Commonwealth shall be reimbursed for their reasonable and necessary
52 travel expenditures ~~which that~~ shall include transportation as provided in ~~§ 2.1-20.8~~ 2.2-2823, parking, and lodging. Receipts
53 for lodging and transportation, if by other than privately owned automobile or state-owned vehicle, shall be submitted with any

1 travel expense account presented to the Comptroller for payment. Transportation by common carrier shall be limited to the
2 cost for travel by the most direct and practical route, and in amounts not exceeding those for tourist or coach class
3 accommodations, if such accommodations are available. Travel shall be over the most direct and practical route.
4 Reimbursement for the cost of transportation shall not be certified to the Comptroller for payment by state agencies in excess
5 of the reimbursement allowed in § ~~2.1-20.82~~ 2.2-2823 except in an emergency or, when in the interest of the Commonwealth, a
6 greater expense is justified, the facts in each such instance to be stated in the expense account.

7 Persons conducting official business of the Commonwealth shall be reimbursed for the reasonable and necessary
8 actual costs of meals, gratuities, and other incidental expenses. At the discretion of the governing authority, a per diem
9 payment may be made in lieu of this reimbursement for meals, gratuities, and other incidental expenses.

10 The Comptroller shall establish policies on travel expenses for all agencies in the executive branch of state
11 government. Policies on travel expenses for the legislative branch, judicial branch, and independent agencies shall be
12 established by the appropriate governing authority.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2.1-20.11~~ 2.2-2826. (Effective October 1, 1998) Travel expense accounts; review by Comptroller.

15 All travel expense accounts shall be submitted on forms prescribed or approved by the Comptroller. Review shall be
16 made by the Comptroller of such accounts subject to the provisions of § ~~2.1-227~~ 2.2-1822. If accounts do not conform to the
17 provisions of § ~~2.1-20.10~~ 2.2-2825, the Comptroller shall return those accounts ~~not in conformity~~ to the agency or commission
18 with an explanation of why they do not conform. The agency or commission may correct the accounts and resubmit them to
19 the Comptroller.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 2.1-804~~ 2.2-2827. ~~Definitions. Restriction on agency employee access via computers to materials with sexually~~
22 ~~explicit content.~~

23 A. For the purpose of this chapter section:

24 "Agency" means any agency, authority, board, department, division, commission, institution, public institution of
25 higher education, bureau, or like governmental entity of the Commonwealth, except the Department of State Police.

26 "Information infrastructure" means telecommunications, cable, and computer networks and includes the Internet, the
27 World Wide Web, Usenet, bulletin board systems, on-line systems, and telephone networks.

28 "Sexually explicit content" means (i) any description of or (ii) any picture, photograph, drawing, motion picture film,
29 digital image or similar visual representation depicting sexual bestiality, a lewd exhibition of nudity, as nudity is defined in §
30 18.2-390, sexual excitement, sexual conduct or sadomasochistic abuse, as also defined in § 18.2-390, coprophilia, urophilia,
31 or fetishism.

32 B. Except to the extent required in conjunction with a bona fide, agency-approved research project or other agency-
33 approved undertaking, no agency employee shall utilize agency-owned or agency-leased computer equipment to access,
34 download, print or store any information infrastructure files or services having sexually explicit content. Agency approvals
35 shall be given in writing by agency heads, and any such approvals shall be available to the public under the provisions of the
36 Virginia Freedom of Information Act (§ 2.2-3700).

37 C. All agencies shall immediately furnish their current employees copies of this section's provisions, and shall furnish
38 all new employees copies of this section concurrent with authorizing them to use agency computers.

39 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
40 A is § 2.1-804, subsection B is § 2.1-805, and subsection C is § 2.1-806.

41 ~~§ 2.1-805. Restriction on agency employee access via computers to materials with sexually explicit content.~~

42 ~~Except to the extent required in conjunction with a bona fide, agency-approved research project or other agency-~~
43 ~~approved undertaking, no agency employee shall utilize agency-owned or agency-leased computer equipment to access,~~
44 ~~download, print or store any information infrastructure files or services having sexually explicit content. Such agency~~
45 ~~approvals shall be given in writing by agency heads, and any such approvals shall be available to the public under the~~
46 ~~provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.) of Title 2.1.~~

47 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-2827 supra.

48 ~~§ 2.1-806. Agencies to inform employees of chapter's provisions.~~

49 ~~All agencies shall immediately furnish their current employees copies of this chapter's provisions, and shall furnish~~
50 ~~all new employees copies of this chapter concurrent with authorizing them to use agency computers.~~

51 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-2827 supra.

52 ~~§ 2.1-20.12. (Effective October 1, 1998) What included in mileage under §§ 2.1-20.8 and 30-10.15.~~

2 | Mileage allowed under §§ 2.1-20.8 and 30-10.15 shall be construed to include all costs incident to the maintenance
and operation of private transportation except storage and parking fees, turnpike, tunnel, ferry and bridge tolls.

3 | DRAFTING NOTE: Technical corrections. This section now appears as subsection B of proposed § 2.2-2823 supra.

4 | ~~§ 2.1-17.4~~ 2.2-2828. How certain officers removed from office.

5 | The Secretary of the Commonwealth, the State Treasurer, the Comptroller, the Superintendent of Public Instruction
6 | or the Commissioner of Agriculture and Consumer Services may be removed from office by joint vote of the two houses of the
7 | General Assembly, or, during the recess thereof, may be suspended by the Governor. This power shall not be exercised by
8 | the Governor except for misbehavior, incapacity, neglect of official duty, or acts performed without due authority of law. In any
9 | case in which this power is so exercised by the Governor, he shall fill the office by a temporary appointment, and report to the
10 | General Assembly, at the beginning of the next session thereof, the fact of such suspension and the cause therefor,
11 | whereupon the General Assembly shall determine whether such officer shall be restored or finally removed.

12 | DRAFTING NOTE: Technical corrections only.

13 | ~~§ 2.1-17.4~~ 2.2-2829. Disappearance of public officer; when office presumed vacant.

14 | Notwithstanding any other provision of law relating to the length of time after which the continued absence of a
15 | person shall create a presumption of death, when a petition alleging that a person who is a public officer elected by the
16 | people or by the General Assembly or appointed by the Governor has disappeared and after diligent search cannot be found
17 | is presented to a court of record in the city or county in which the last known residence of the person is located, and when it
18 | appears to the satisfaction of the court that the circumstances surrounding the disappearance afford reasonable grounds for
19 | the belief that the person ~~has suffered death from accidental or violent means~~ is dead, then the office held by such person
20 | shall be presumed to be vacant and the court shall enter an order to that effect.

21 | DRAFTING NOTE: Technical corrections only.

22 | ~~§ 2.1-18~~ 2.2-2830. Governor to fill vacancy in any state office where no other provision is made by law; term of
23 | appointment; benefits.

A. When a vacancy occurs in any state office, whether the officer ~~be~~ is elected by the people or the General
Assembly, or ~~be~~ is appointed by the Governor, and no other provision is made for filling the same, it shall be filled by the
Governor.

B. If the office is one filled by election by the people, the appointee shall hold such office until the next general
election, and thereafter until his successor qualifies, according to law. If the office is filled by an election by the General
Assembly or appointment by the Governor, and such appointment requires confirmation of the Senate or the General
Assembly, the appointee shall temporarily hold such office until thirty days after the commencement of the next session of the
General Assembly. Notwithstanding any provision of law to the contrary, any individual temporarily appointed under this
section shall be eligible for, receive, and accrue all benefits, retirement, health and life insurance, personnel and otherwise,
due such appointee by virtue of his holding such office.

34 | DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection
35 | A is § 2.1-18 and subsection B is § 2.1-19.

36 | ~~§ 2.1-10. Term of such appointment; benefits.~~

37 | ~~If such office be one filled by election by the people, the appointee shall hold such office until the next general~~
38 | ~~election, and thereafter until his successor qualifies, according to law. If it is to be filled by an election by the General~~
39 | ~~Assembly or appointment by the Governor, and such appointment requires confirmation of the Senate or the General~~
40 | ~~Assembly, the appointee shall temporarily hold such office until thirty days after the commencement of the next session of the~~
41 | ~~General Assembly. Notwithstanding any provision of law to the contrary, any individual temporarily appointed under this~~
42 | ~~section shall be eligible for, receive, and accrue all benefits, retirement, health and life insurance, personnel and otherwise,~~
43 | ~~due such appointee by virtue of his holding such office.~~

44 | DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-2831 supra.

45 | CHAPTER 29.

46 | VIRGINIA PERSONNEL ACT.

47 | ~~§ 2.1-110~~ 2.2-2900. Short title; purpose.

48 | This chapter shall be known and may be cited as the "Virginia Personnel Act."

The purpose of this chapter is to ensure for the Commonwealth a system of personnel administration based on merit
principles and objective methods of appointment, promotion, transfer, layoff, removal, discipline, and other incidents of state
employment.

1 **DRAFTING NOTE:** Technical corrections only.

2 ~~§ 2-1-114.1 2-2-2901.~~ Appointments, promotions and tenure based upon merit and fitness.

3 A. In accordance with the provisions of this chapter all appointments and promotions to and tenure in positions in the
4 service of the Commonwealth shall be based upon merit and fitness, to be ascertained, as far as possible, by the competitive
5 rating of qualifications by the respective appointing authorities.

6 Persons holding positions in the service of the Commonwealth on July 1, 1952, shall be deemed to be holding their
7 positions as though they had received appointment under the terms of this chapter.

8 B. ~~Persons who, on such date, had left the service of the Commonwealth for service in any of the armed forces of~~
9 ~~the United States shall be deemed to have held the positions which they had thus left as though they had received~~
10 ~~appointment under the terms of this chapter, and all such persons, as well as persons who thereafter leave the service of the~~
11 ~~Commonwealth for service in such any of the armed forces of the United States,~~ shall be entitled to be restored to such
12 positions upon the termination of their service with the armed forces, provided such persons, except for good cause shown,
13 have filed an application for restoration to such positions within ninety calendar days following such termination of military
14 service, accompanied by a certificate attesting that the military duty was satisfactorily performed. Such persons shall
15 thereafter hold such positions as though they had received appointment under the terms of this chapter, except as to any
16 such position which, in the meantime, may have been abolished; ~~and any.~~ Any such former employee returning to, or
17 applying for, employment in the state service, as provided by this section, shall be considered as having at least as favorable
18 a status with reference to this chapter as he would have occupied if his service had been continuous.

19 ~~Provided, however, that with respect to state employees who enter on active military duty in the armed forces of the~~
20 ~~United States after June 30, 1956, such rights shall extend only to such employees who (a) have appointments other than~~
21 ~~temporary in state service prior to entering on active military duty, and (b) serve not more than four years on active military~~
22 ~~duty or such longer periods as shall be fixed by the Governor, and (c) have a certificate attesting that the military duty was~~
23 ~~satisfactorily completed, and (d) apply for reinstatement in state service not later than ninety calendar days following~~
24 ~~separation from active military duty unless a longer period be approved by the Governor.~~

25 C. No establishment of a position or rate of pay, and no change in rate of pay shall become effective except on order
26 of the appointing authority and approval by the Governor; ~~provided, however, that this.~~ This paragraph subsection shall not
27 apply to any position the compensation of which is at a rate of \$1,200 per annum or less.

28 D. ~~Provided, further, however, that in~~ In order to attract and retain professional auditors, accountants and ~~est-~~
29 members in the service of the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission may esta
30 scales of pay for such positions notwithstanding the provisions of this chapter. Such scales when established and certifie
31 the Department of Human Resource Management and the Comptroller shall be applicable in the stead of the scales
32 established under the personnel plan.

33 **DRAFTING NOTE:** Technical corrections. Language in the beginning of the third paragraph and in the fourth paragraph has
34 been deleted as obsolete.

35 ~~§ 2-1-114.1 2-2-2902. (Effective December 1, 1997)~~ Use of tobacco products by state employees.

36 No employee of or applicant for employment with the Commonwealth shall be required, as a condition of
37 employment, to smoke or use tobacco products on the job, or to abstain from smoking or using tobacco products outside the
38 course of his employment, provided that this section shall not apply to those classes of employees to which § 27-40.1 or §
39 51.1-813 is applicable.

40 **DRAFTING NOTE:** Technical corrections only.

41 ~~§ 2-1-112 2-2-2903. (Effective July 1, 1998)~~ Grade or rating increase and other preferences for veterans.

42 A. In a manner consistent with federal and state law, if any veteran applies for employment with the Commonwealth
43 ~~which that~~ is based on the passing of any written examination, the veteran's grade or rating on such examination shall be
44 increased by five percent. However, if the veteran has a service-connected disability rating fixed by the United States
45 Veterans Administration, his grade or rating shall be increased by ten percent on such written examination. Such increases
46 shall apply only if the veteran passes such examination.

47 B. In a manner consistent with federal and state law, if any veteran applies for employment with the Commonwealth
48 ~~which that~~ is not based on the passing of any examination, such veteran's military service shall be taken into consideration by
49 the Commonwealth during the selection process, provided that such veteran meets all of the knowledge, skill, and ability
50 requirements for the available position.

51 C. If any veteran is denied employment with the Commonwealth, he shall be entitled, to the extent permitted by law,
52 to request and inspect information regarding the reasons for such denial.

53 D. For purposes of this section, "veteran" means any person who has received an honorable discharge and has (i)
54 provided more than 180 consecutive days of full-time, active-duty service in the armed forces of the United States ~~Ar~~

Mileage allowed under §§ 2.1-20.8 and 30-10.15 shall be construed to include all costs incident to the maintenance and operation of private transportation except storage and parking fees, turnpike, tunnel, ferry and bridge tolls.

DRAFTING NOTE: Technical corrections. This section now appears as subsection B of proposed § 2.2-2823 supra.

~~§ 2.1-47~~ 2.2-2828. How certain officers removed from office.

The Secretary of the Commonwealth, the State Treasurer, the Comptroller, the Superintendent of Public Instruction or the Commissioner of Agriculture and Consumer Services may be removed from office by joint vote of the two houses of the General Assembly, or, during the recess thereof, may be suspended by the Governor. This power shall not be exercised by the Governor except for misbehavior, incapacity, neglect of official duty, or acts performed without due authority of law. In any case in which this power is so exercised by the Governor, he shall fill the office by a temporary appointment, and report to the General Assembly, at the beginning of the next session thereof, the fact of such suspension and the cause therefor, whereupon the General Assembly shall determine whether such officer shall be restored or finally removed.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-47.4~~ 2.2-2829. Disappearance of public officer; when office presumed vacant.

Notwithstanding any other provision of law relating to the length of time after which the continued absence of a person shall create a presumption of death, when a petition alleging that a person who is a public officer elected by the people or by the General Assembly or appointed by the Governor has disappeared and after diligent search cannot be found is presented to a court of record in the city or county in which the last known residence of the person is located, and when it appears to the satisfaction of the court that the circumstances surrounding the disappearance afford reasonable grounds for the belief that the person ~~has suffered death from accidental or violent means~~ is dead, then the office held by such person shall be presumed to be vacant and the court shall enter an order to that effect.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-48~~ 2.2-2830. Governor to fill vacancy in any state office where no other provision is made by law; term of appointment; benefits.

A. When a vacancy occurs in any state office, whether the officer ~~be~~ is elected by the people or the General Assembly, or ~~be~~ is appointed by the Governor, and no other provision is made for filling the same, it shall be filled by the Governor.

B. If the office is one filled by election by the people, the appointee shall hold such office until the next general election, and thereafter until his successor qualifies, according to law. If the office is filled by an election by the General Assembly or appointment by the Governor, and such appointment requires confirmation of the Senate or the General Assembly, the appointee shall temporarily hold such office until thirty days after the commencement of the next session of the General Assembly. Notwithstanding any provision of law to the contrary, any individual temporarily appointed under this section shall be eligible for, receive, and accrue all benefits, retirement, health and life insurance, personnel and otherwise, due such appointee by virtue of his holding such office.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 2.1-18 and subsection B is § 2.1-19.

~~§ 2.1-19. Term of such appointment; benefits.~~

~~If such office be one filled by election by the people, the appointee shall hold such office until the next general election, and thereafter until his successor qualifies, according to law. If it is to be filled by an election by the General Assembly or appointment by the Governor, and such appointment requires confirmation of the Senate or the General Assembly, the appointee shall temporarily hold such office until thirty days after the commencement of the next session of the General Assembly. Notwithstanding any provision of law to the contrary, any individual temporarily appointed under this section shall be eligible for, receive, and accrue all benefits, retirement, health and life insurance, personnel and otherwise, due such appointee by virtue of his holding such office.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-2831 supra.

CHAPTER 29.

VIRGINIA PERSONNEL ACT.

~~§ 2.1-440~~ 2.2-2900. Short title; purpose.

This chapter shall be known and may be cited as the "Virginia Personnel Act."

The purpose of this chapter is to ensure for the Commonwealth a system of personnel administration based on merit principles and objective methods of appointment, promotion, transfer, layoff, removal, discipline, and other incidents of state employment.

1 **DRAFTING NOTE:** Technical corrections only.

2 ~~§ 2-1-111.1 2-2-2901.~~ Appointments, promotions and tenure based upon merit and fitness.

3 A. In accordance with the provisions of this chapter all appointments and promotions to and tenure in positions in the
4 service of the Commonwealth shall be based upon merit and fitness, to be ascertained, as far as possible, by the competitive
5 rating of qualifications by the respective appointing authorities.

6 Persons holding positions in the service of the Commonwealth on July 1, 1962, shall be deemed to be holding their
7 positions as though they had received appointment under the terms of this chapter.

8 ~~B. Persons who, on such date, had left the service of the Commonwealth for service in any of the armed forces of~~
9 ~~the United States shall be deemed to have held the positions which they had thus left as though they had received~~
10 ~~appointment under the terms of this chapter, and all such persons, as well as persons who thereafter leave the service of the~~
11 ~~Commonwealth for service in such any of the armed forces of the United States, shall be entitled to be restored to such~~
12 positions upon the termination of their service with the armed forces, provided such persons, except for good cause shown,
13 have filed an application for restoration to such positions within ninety calendar days following such termination of military
14 service, accompanied by a certificate attesting that the military duty was satisfactorily performed. Such persons shall
15 thereafter hold such positions as though they had received appointment under the terms of this chapter, except as to any
16 such position which, in the meantime, may have been abolished; and any Any such former employee returning to, or
17 applying for, employment in the state service, as provided by this section, shall be considered as having at least as favorable
18 a status with reference to this chapter as he would have occupied if his service had been continuous.

19 ~~Provided, however, that with respect to state employees who enter on active military duty in the armed forces of the~~
20 ~~United States after June 30, 1966, such rights shall extend only to such employees who (a) have appointments other than~~
21 ~~temporary in state service prior to entering on active military duty, and (b) serve not more than four years on active military~~
22 ~~duty or such longer periods as shall be fixed by the Governor, and (c) have a certificate attesting that the military duty was~~
23 ~~satisfactorily completed, and (d) apply for reinstatement in state service not later than ninety calendar days following~~
24 ~~separation from active military duty unless a longer period be approved by the Governor.~~

25 C. No establishment of a position or rate of pay, and no change in rate of pay shall become effective except on order
26 of the appointing authority and approval by the Governor; ~~provided, however, that this.~~ This paragraph subsection shall not
27 apply to any position the compensation of which is at a rate of \$1,200 per annum or less.

28 ~~D. Provided, further, however, that in~~ D. ~~In~~ order to attract and retain professional auditors, accountants and s'
29 members in the service of the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission may estab
30 scales of pay for such positions notwithstanding the provisions of this chapter. Such scales when established and certified
31 the Department of Human Resource Management and the Comptroller shall be applicable in the stead of the scales
32 established under the personnel plan.

33 **DRAFTING NOTE:** Technical corrections. Language in the beginning of the third paragraph and in the fourth paragraph has
34 been deleted as obsolete.

35 ~~§ 2-1-111.1 2-2-2902. (Effective December 1, 1997)~~ Use of tobacco products by state employees.

36 No employee of or applicant for employment with the Commonwealth shall be required, as a condition of
37 employment, to smoke or use tobacco products on the job, or to abstain from smoking or using tobacco products outside the
38 course of his employment, provided that this section shall not apply to those classes of employees to which § 27-40.1 or §
39 51.1-813 is applicable.

40 **DRAFTING NOTE:** Technical corrections only.

41 ~~§ 2-1-112 2-2-2903. (Effective July 1, 1998)~~ Grade or rating increase and other preferences for veterans.

42 A. In a manner consistent with federal and state law, if any veteran applies for employment with the Commonwealth
43 ~~which that~~ is based on the passing of any written examination, the veteran's grade or rating on such examination shall be
44 increased by five percent. However, if the veteran has a service-connected disability rating fixed by the United States
45 Veterans Administration, his grade or rating shall be increased by ten percent on such written examination. Such increases
46 shall apply only if the veteran passes such examination.

47 B. In a manner consistent with federal and state law, if any veteran applies for employment with the Commonwealth
48 ~~which that~~ is not based on the passing of any examination, such veteran's military service shall be taken into consideration by
49 the Commonwealth during the selection process, provided that such veteran meets all of the knowledge, skill, and ability
50 requirements for the available position.

51 C. If any veteran is denied employment with the Commonwealth, he shall be entitled, to the extent permitted by law,
52 to request and inspect information regarding the reasons for such denial.

53 D. For purposes of this section, "veteran" means any person who has received an honorable discharge and has (i)
54 provided more than 180 consecutive days of full-time, active-duty service in the armed forces of the United States ~~Ar~~

1 | Navy, Air Force, Marines, Coast Guard, or reserve components thereof, including the National Guard, or (ii) has a service-
2 | connected disability rating fixed by the United States Veterans Administration.

3 | **DRAFTING NOTE:** Technical corrections only.

4 | ~~§ 2.1-113. Governor to be Chief Personnel Officer; Director of Human Resource Management; assistants and~~
5 | ~~employees; assignment of duties; expenses.~~

6 | ~~The Governor shall be the Chief Personnel Officer of the Commonwealth. He shall direct the execution of this~~
7 | ~~chapter. The Governor shall appoint a Director of Human Resource Management, who shall hold his position at the pleasure~~
8 | ~~of the Governor. The Director of Human Resource Management shall, under the direction and control of the Governor,~~
9 | ~~exercise such powers and perform such duties as are delegated to him by the Governor or conferred or imposed by law upon~~
10 | ~~him; and he shall perform such other duties as may be required of him by the Governor. The Governor may employ such~~
11 | ~~other competent personnel assistants and employees as he may require to carry out its provisions. At his discretion he may~~
12 | ~~assign to officers and employees of the Commonwealth such duties as he sees fit in connection with the administration of this~~
13 | ~~chapter; such officers and employees shall receive no extra compensation for such duties but shall be reimbursed for~~
14 | ~~necessary travel and other expenses.~~

15 | **DRAFTING NOTE:** Technical corrections. This section now appears in Subtitle I, Part A in Chapter 1 relating to the powers
16 | and duties of the Governor and Chapter 12, Department of Human Resource Management.

17 | ~~§ 2.1-114.1 2.2-290.4.~~ Classification of persons who have passed certified professional secretary examination.

18 | Clerical personnel who have passed all parts of the certified professional secretary examination, evidenced by
19 | certification by the Institute for Certifying Secretaries, a department of the National Secretaries Association (International), or
20 | the professional legal secretary examination, evidenced by certification by the Certifying Board of the National Association of
21 | Legal Secretaries (International), shall be assured that this certification will be taken into consideration when opportunity for
22 | promotion becomes available.

23 | **DRAFTING NOTE:** Technical corrections only.

24 | ~~§ 2.1-116 2.2-290.5.~~ Certain officers and employees exempt from chapter.

25 | The provisions of this chapter shall not apply to:

- 26 | 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 27 | 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 28 | 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is
29 | required or not;
- 30 | 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 31 | 5. Members of boards and commissions however selected;
- 32 | 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and
33 | any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
- 34 | 7. Officers and employees of the General Assembly and persons employed to conduct temporary or special
35 | inquiries, investigations, or examinations on its behalf;
- 36 | 8. The presidents, and teaching and research staffs of state educational institutions;
- 37 | 9. Commissioned officers and enlisted personnel of the National Guard and the naval militia;
- 38 | 10. Student employees in institutions of learning, and patient or inmate help in other state institutions;
- 39 | 11. Upon general or special authorization of the Governor, laborers, temporary employees and employees
40 | compensated on an hourly or daily basis;
- 41 | 12. County, city, town and district officers, deputies, assistants and employees;
- 42 | 13. The employees of the Virginia Workers' Compensation Commission;
- 43 | 14. The officers and employees of the Virginia Retirement System;
- 44 | 15. Employees whose positions are identified by the State Council of Higher Education and the boards of the
45 | Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture
46 | Museum of Virginia, the Virginia Museum of Natural History and The Library of Virginia, and approved by the Director of the
47 | Department of Human Resource Management as requiring specialized and professional training;
- 48 | 16. Employees of the State Lottery Department;
- 49 | 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;
- 50 | 18. ~~[Repeated]~~
- 51 | 18. Employees of the Virginia Commonwealth University Health System Authority;

1 2019. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such
2 employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of
3 Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and
4 fitness. Such employees shall remain subject to the provisions of ~~Chapter 10.01 (§ 2.1-116.01 the State Grievance Procedure~~
5 ~~(§ 2.2-3000 et seq.) of Title 2.1;~~

6 2420. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or
7 equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration.
8 An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An
9 agency may not exceed two employees who serve in this exempt capacity;

10 2221. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of
11 ~~Chapter 10.01 (§ 2.1-116.01 the State Grievance Procedure (§ 2.2-3000 et seq.) of Title 2.1;~~

12 2322. Officers and employees of the Virginia Port Authority;

13 2423. Employees of the Virginia College Savings Plan; and

14 2524. Directors of state facilities operated by the Department of Mental Health, Mental Retardation and Substance
15 Abuse Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.1-42.2.

16 **DRAFTING NOTE:** Technical corrections only.

17 CHAPTER 30.

18 STATE GRIEVANCE PROCEDURE.

19 ~~§ 2.1-116.04 2.2-3000. Responsibilities~~ Policy of the Commonwealth; responsibilities of state agencies
20 under this chapter.

21 A. It shall be the policy of the Commonwealth, as an employer, to encourage the resolution of employee problems
22 and complaints. To that end, employees shall be able to discuss freely, and without retaliation, their concerns with their
23 immediate supervisors and management. To the extent that such concerns cannot be resolved informally, the grievance
24 procedure shall afford an immediate and fair method for the resolution of employment disputes that may arise between state
25 agencies and those employees who have access to the procedure under § 2.2-3001.

26 AB. To fully achieve the objectives of this chapter and to create uniformity, each agency in the executive branch
27 agency or department listed in Title 2.1 of state government shall:

28 1. Require supervisory personnel to be trained in the grievance procedure, personnel policies, and conflict
29 resolution;

30 2. Familiarize employees with their grievance rights and promote the services of the Department of Employment
31 Dispute Resolution;

32 3. Cooperate with investigations conducted pursuant to the authority granted by clause (iii) of subdivision 4 (iii) of §
33 2.1-116.03 § 2.2-1001;

34 4. Participate in the mediation program; and

35 5. Evaluate supervisors on the effectiveness of employee relations management, including, but not limited to, their
36 handling of grievances.

37 BC. The Department of Employment Dispute Resolution shall monitor agencies' activities under this section.

38 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
39 A is subsection A of § 2.1-116.05, and subsection B is § 2.1-116.04.

40 ~~§ 2.1-116.00 2.2-3001.~~ State employees.

41 A. Unless exempted by law, all nonprobationary state employees shall be ~~included in covered by~~ the grievance
42 procedure established pursuant to this chapter and any regulations ~~promulgated adopted~~ pursuant thereto. Employees not
43 covered by ~~such the~~ grievance procedure may be covered by an alternative grievance procedure.

44 B. The Office of the Attorney General and every legislative, judicial, and independent agency ~~which that~~ is not
45 subject to the state grievance procedure shall establish and administer a grievance procedure.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 2.1-116.04 § 2.2-3002.~~ Exemptions from chapter.

48 The provisions of this chapter shall not apply to:

49 1. Appointees of elected groups or individuals except as provided in subsection B of ~~§ 2.1-116.00 2.2-3001;~~

50 2. Agency heads or chief executive officers of government agencies and public institutions of higher education
51 appointed by boards and commissions;

3. Law-enforcement officers as defined in § ~~2.1-116.49~~ 1-500 whose grievances are subject to Chapter ~~40.1~~ (§ ~~2.1-116.45~~ § 9.1-500 et seq.) and who have elected to resolve such grievances under those provisions; and

4. Employees in positions designated in § ~~2.1-116~~ 2.2-2905 as exempt from the Virginia Personnel Act (§ ~~2.1-110~~ 2.2-2900 et seq.).

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-116.05~~ 2.2-3003. Grievance procedure generally.

~~A. It shall be the policy of the Commonwealth, as an employer, to encourage the resolution of employee problems and complaints. To that end, employees must be able to freely, and without retaliation, discuss their concerns with their immediate supervisors and management. To the extent that such concerns cannot be resolved informally, the grievance procedure shall afford an immediate and fair method for the resolution of employment disputes which may arise between state agencies and those employees who have access to the procedure under § 2.1-116.00.~~

~~BA.~~ BA. As part of the Commonwealth's program of employee relations management, the Department of Employment Dispute Resolution shall develop a grievance procedure that includes not more than three successively higher grievance resolution steps and a formal hearing as provided in this chapter.

~~CB.~~ CB. Prior to initiating a written grievance, the employee shall be encouraged to pursue an informal complaint with his immediate supervisor. The supervisor shall have authority to resolve the complaint if it involves actions within his control.

~~CC.~~ CC. An employee may pursue a formal written grievance through the grievance resolution steps if the complaint has been presented to management within thirty calendar days of the employee's knowledge of the event that gave rise to the complaint. Employees' rights to pursue grievances shall not be used to harass or otherwise impede the efficient operations of government.

~~CD.~~ CD. Upon receipt of a timely written complaint, management shall review the grievance and respond to the merits thereof. Each level of management review shall have the authority to provide the employee with a remedy. At least one face-to-face meeting between the employee and management shall be required. The persons who may be present at this meeting are the employee, the appropriate manager, an individual selected by the employee, and an individual selected by the manager. Witnesses may be called by either party.

~~CE.~~ CE. Absent just cause, all documents, as defined in the Rules of the Supreme Court of Virginia, relating to the actions grieved shall be made available, upon request from a party to the grievance, by the opposing party. Documents pertaining to nonparties that are relevant to the grievance shall be produced in such a manner as to preserve the privacy of the individuals not personally involved in the grievance. A party shall not be required to create a document if the document does not exist.

~~CF.~~ CF. All time limitations prescribed in the grievance procedure, including, but not limited to, submission of an initial complaint and employee appeal of management decisions, shall be reasonable, specific, and equally applicable to the agency and the employee. Expedited grievance procedures shall be established for terminations, demotions, suspensions, and lost wages or salaries.

~~CG.~~ CG. Within five workdays of the receipt of a written notice of noncompliance, failure of the employee or the agency to comply with a substantial procedural requirement of the grievance procedure without just cause may result in a decision against the noncomplying party on any qualified issue. Written notice of noncompliance by the agency ~~must~~ shall be made to the agency head. The Director of the Department of Employment Dispute Resolution shall render all decisions related to procedural compliance, and such decisions shall contain the reasons for such decision and shall be final.

~~CH.~~ CH. Grievances qualified pursuant to § ~~2.1-116.06~~ 2.2-3004 that have not been resolved through the grievance resolution steps shall advance to a hearing ~~which that~~ shall be the final step in the grievance procedure.

DRAFTING NOTE: Technical corrections. Existing subsection A has been moved to proposed § 2.2-3000 as new subsection A in that section, supra.

~~§ 2.1-116.06~~ 2.2-3004. Grievances qualifying for a grievance hearing; grievance hearing generally.

A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee relating to the following adverse employment actions in which the employee is personally involved, including but not limited to: (i) formal disciplinary actions, including suspensions, demotions, transfers and assignments, and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of all written personnel policies, procedures, rules and regulations where it can be shown that policy was misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin or sex; (iv) arbitrary or capricious performance evaluations; (v) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement; and (vi) retaliation for exercising any right otherwise protected by law.

B. Management reserves the exclusive right to manage the affairs and operations of state government. Management shall exercise its powers with the highest degree of trust. In any employment matter that management precludes from

1 proceeding to a grievance hearing, management's response, including any appropriate remedial actions, shall be pr
2 complete, and fair.

3 C. Complaints relating solely to the following issues shall not proceed to a hearing: (i) establishment and revision of
4 wages, salaries, position classifications, or general benefits; (ii) work activity accepted by the employee as a condition of
5 employment or which may reasonably be expected to be a part of the job content; (iii) contents of ordinances, statutes or
6 established personnel policies, procedures, and rules and regulations; (iv) methods, means, and personnel by which work
7 activities are to be carried on; (v) termination, layoff, demotion, or suspension from duties because of lack of work, reduction
8 in work force, or job abolition; (vi) hiring, promotion, transfer, assignment, and retention of employees within the agency; and
9 (vii) relief of employees from duties of the agency in emergencies.

10 D. Decisions regarding whether a grievance qualifies for a hearing shall be made in writing by the agency head or
11 his designee within five workdays of the employee's request for a hearing. A copy of the decision shall be sent to the
12 employee. The employee may appeal the denial of a hearing by the agency head to the Director of the Department of
13 Employment Dispute Resolution (the "Director"). Upon receipt of an appeal, the agency shall transmit the entire grievance
14 record to the Department of Employment Dispute Resolution within five workdays. The Director shall render a decision on
15 whether the employee is entitled to a hearing upon the grievance record and other probative evidence.

16 E. Proceedings for review of the decision of the Director may be made by an employee filing a notice of appeal
17 within five workdays of receipt of the decision. Within five workdays thereafter, the agency shall transmit to the clerk of the
18 circuit court in the jurisdiction in which the grievance arose a copy of the grievance record. The court, on motion of the
19 grievant, may issue a writ of certiorari requiring the Director to transmit the record on or before a certain date. Within thirty
20 days of receipt of such records, the court, sitting without a jury, shall hear the appeal on the record and such additional
21 evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may
22 receive such other evidence as the ends of justice require. The court may affirm the decision of the Director or may reverse or
23 modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion
24 of the hearing. The decision of the court ~~is shall be~~ final and ~~is shall not be~~ appealable. The circuit court hearing shall be at no
25 cost to the Commonwealth or the grievant.

26 F. The hearing pursuant to ~~§ 2-1-416.07~~ 2.2-3005 shall be held in the locality in which the employee is employed or in
27 any other locality agreed to by the employee, employer, and hearing officer. The employee and the agency may be
28 represented by legal counsel or a lay advocate, the provisions of § 54.1-3904 notwithstanding. The employee and the agency
29 may call witnesses to present testimony and be cross-examined.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2-1-416.07~~ 2.2-3005. Hearing officers; duties; decisions; costs.

32 A. Nothing in this chapter shall create, nor shall be construed to create, a property interest in selection or assignment
33 to serve as a hearing officer for grievance hearings.

34 B. The Director of the Department of Employment Dispute Resolution shall assign a hearing officer to conduct the
35 grievance hearing. All hearing officers shall be selected, on a rotating basis, (i) from the list of administrative hearing officers
36 maintained by the Supreme Court of Virginia pursuant to ~~§ 9-6.14:14.1~~ 2.2-4024 or (ii) from attorneys hired as classified
37 employees by the Department through a competitive selection process. In addition to the training requirements imposed by
38 the Supreme Court, each hearing officer shall meet the criteria established by the Director pursuant to subdivision 6 of § ~~2-4-~~
39 ~~416.03-2.2-1001~~ and attend annually at least one day of training in employment law or state personnel policies and
40 organizations. ~~Such~~ The training shall be conducted by the Department of Employment Dispute Resolution or an organization
41 approved by the Virginia State Bar for continuing legal education.

42 C. Hearing officers shall have the following powers and duties:

- 43 1. Hold conferences for the settlement or simplification of issues;
- 44 2. Dispose of procedural requests;
- 45 3. Issue orders requiring testimony or the production of evidence;
- 46 4. Administer oaths and affirmations;
- 47 5. Receive probative evidence; exclude irrelevant, immaterial, insubstantial, privileged, or repetitive proofs, rebuttals,
48 or cross-examinations; rule upon offers of proof; and oversee ~~an accurate a~~ verbatim recording of the evidence;
- 49 6. For those issues qualified for a hearing, order appropriate remedies. Relief may include reinstatement, back pay,
50 full reinstatement of fringe benefits and seniority rights, or any combination of these remedies; and
- 51 7. Take other actions as necessary or specified in the grievance procedure.

52 D. The decision of the hearing officer shall (i) be in writing, (ii) contain findings of fact as to the material issues in the
53 case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

54 E. Except for the employee's counsel or advocate fees, the agency from which the grievance arises shall bear the
55 costs for the hearing officer and other associated hearing expenses.

1 **DRAFTING NOTE:** Technical corrections only.

2 | ~~§ 2-1-116.07-1~~ 2.2-3006. Review of hearing decisions; costs.

3 A. In grievances initiated by state employees, the Director of the Department of Human Resource Management shall
4 determine within sixty days of the decision whether the decision is consistent with policy. In grievances arising out of the
5 Department of Mental Health, Mental Retardation and Substance Abuse Services that challenge allegations of patient abuse,
6 the Director of the Department of Employment Dispute Resolution shall determine within sixty days of the decision whether
7 the decision is consistent with law. The hearing officer's decision shall be effective from the date issued and shall be
8 implemented immediately unless circumstances beyond the control of the agency delay such implementation.

9 B. Within thirty days of a final decision, a party may appeal on the grounds that the determination is contradictory to
10 law by filing a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose. The agency
11 shall request and receive prior approval of the Director before filing a notice of appeal. After a notice of appeal has been filed
12 by either party, the agency shall then transmit a copy of the grievance record to the clerk of the court. The court, on motion of
13 a party, shall issue a writ of certiorari requiring transmission of the record on or before a certain date. Within thirty days of
14 receipt of the grievance record, the court, sitting without a jury, shall hear the appeal on the record. The court may affirm the
15 decision or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day
16 from the date of the conclusion of the hearing. The circuit court hearing shall be at no cost to the Commonwealth or the
17 grievant.

18 C. Either party may petition the circuit court having jurisdiction in the locality in which the grievance arose for an
19 order requiring implementation of the final decision or recommendation of a hearing officer.

20 D. The court shall award reasonable attorneys' fees and costs to the employee if the employee substantially prevails
21 on the merits of a case brought under subsection B or C.

22 **DRAFTING NOTE:** Technical corrections only.

23 | ~~§ 2-1-116.08~~ 2.2-3007. Certain employees of the Departments of Corrections and Juvenile Justice.

24 A. Employees of the Departments of Corrections and Juvenile Justice who work in institutions or juvenile correctional
25 centers or have client, inmate, or resident contact and who are terminated on the grounds of client, inmate, or resident abuse,
26 criminal conviction, or as a result of being placed on probation under the provisions of § 18.2-251, may appeal their
27 termination only through the grievance resolution steps.

28 B. If no resolution is reached by the conclusion of the last grievance step, the employee may advance the grievance
29 to the circuit court of the jurisdiction in which the grievance occurred for a de novo hearing on the merits. In its discretion, the
30 court may refer the matter to a commissioner in chancery to take such evidence as may be proper and to make a report to the
31 court. Both the grievant and the respondent may call upon ~~appropriate~~ witnesses and be represented by legal counsel or
32 other representatives before the court or the commissioner in chancery. Such representatives may examine, cross-examine,
33 question and present evidence on behalf of the grievant or respondent before the court or commissioner in chancery without
34 being in violation of the provisions of § 54.1-3904.

35 C. A termination shall be upheld unless shown to have been unwarranted by the facts or contrary to law or policy.
36 The decision of the court shall be final and binding.

37 **DRAFTING NOTE:** Technical corrections only.

38 | ~~§ 2-1-116.012~~ 2.2-3008. Employees of local constitutional officers.

39 ~~The employees of constitutional~~ Constitutional officers shall not be required to ~~be covered by~~ provide a grievance
40 procedure for their employees; however, such employees may be accepted in a local governing body's grievance procedure
41 or personnel system if agreed to by the constitutional officer and the local governing body.

42 **DRAFTING NOTE:** Technical corrections only.

43 | CHAPTER 31.

44 | STATE AND LOCAL GOVERNMENT CONFLICT OF INTERESTS ACT.

45 | Article 1.

46 | General Provisions.

47 | ~~§ 2-1-630.1~~ 2.2-3100. Policy; application; construction.

48 The General Assembly, ~~of Virginia~~, recognizing that our system of representative government is dependent in part
49 upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the
50 highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the
51 judgment of public officers and employees will not be compromised or affected by inappropriate conflicts. To that end and for
52 the purpose of establishing a single body of law applicable to all state and local government officers and employees on the

1 subject of conflict of interests, the General Assembly enacts this State and Local Government Conflict of interests Act so that
2 the standards of conflict of such officers and employees may be uniform throughout the Commonwealth.

3 This chapter shall supersede all general and special acts and charter provisions which purport to deal with matters
4 covered by this chapter except that the provisions of ~~§§ 45.1-73.415.2-852, 45.1-486.415.2-2289, and 45.1-404.15.2-2287~~
5 and ordinances adopted pursuant thereto shall remain in force and effect.

6 This chapter shall be liberally construed to accomplish its purpose.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2.1-630.2 2.2-3101.~~ Definitions.

9 As used in this chapter:

10 "Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power
11 or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or
12 recommendations, or advising or consulting with a governmental agency.

13 "Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or
14 foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

15 "Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a
16 governmental agency ~~which~~that involves the payment of money appropriated by the General Assembly or political
17 subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision
18 thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own
19 governmental agency.

20 "Dependent" means a son, daughter, father, mother, brother, sister or other person, whether or not related by blood
21 or marriage, if such person receives from the officer or employee, or provides to the officer or employee, more than one-half
22 of his financial support.

23 "Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the
24 context of its use.

25 "Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer
26 finance company, credit union, broker-dealer as defined in § 13.1-501, or investment company or advisor registered under the
27 federal Investment Advisors Act or Investment Company Act of 1940.

28 "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having
29 monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-
30 kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" shall not
31 include any offer of a ticket or other admission or pass unless the ticket, admission, or pass is used. "Gift" shall not include
32 honorary degrees and presents from relatives. For the purpose of this definition, "relative" means the donee's spouse, child,
33 uncle, aunt, niece, or nephew; a person to whom the donee is engaged to be married; the donee's or his spouse's parent,
34 grandparent, grandchild, brother, or sister; or the donee's brother's or sister's spouse.

35 "Governmental agency" means each component part of the legislative, executive or judicial branches of state and
36 local government, including each office, department, authority, post, commission, committee, and each institution or board
37 created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or
38 duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of
39 this chapter.

40 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household as the officer or
41 employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

42 "Officer" means any person appointed or elected to any governmental or advisory agency including local school
43 boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise,
44 "officer" includes members of the judiciary.

45 "Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his
46 immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three
47 percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed,
48 \$10,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits
49 from the use of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be
50 anticipated to exceed, \$10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$10,000 in value
51 and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of
52 property; or (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset
53 value of the business.

54 "Personal interest in a contract" means a personal interest ~~which~~that an officer or employee has in a contract with a
55 governmental agency, whether due to his being a party to the contract or due to a personal interest in a business ~~which~~that
56 is a party to the contract.

1 "Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by
2 his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal
3 interest in property or a business, or represents any individual or business and such property, business or represented
4 individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit
5 or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal
6 interest in a transaction shall not be deemed to exist where an elected member of a local governing body serves without
7 remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his
8 immediate family has no personal interest related to the not-for-profit entity.

9 "State and local government officers and employees" shall not include members of the General Assembly.

10 "Transaction" means any matter considered by any governmental or advisory agency, whether in a committee,
11 subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

12 **DRAFTING NOTE:** Technical corrections only.

13 Article 2.

14 Generally Prohibited and Unlawful Conduct.

15 ~~§ 2-1-639.3~~ 2.2-3102. Application.

16 This article applies to generally prohibited conduct ~~which~~ that shall be unlawful and to state and local government
17 officers and employees.

18 **DRAFTING NOTE:** Technical corrections only.

19 ~~§ 2-1-639.4~~ 2.2-3103. Prohibited conduct.

20 No officer or employee of a state or local governmental or advisory agency shall:

21 1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except
22 the compensation, expenses or other remuneration paid by the agency of which he is an officer or employee. This prohibition
23 shall not apply to the acceptance of special benefits ~~which~~ that may be authorized by law;

24 2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or
promotion of any person with any governmental or advisory agency;

25 3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain
26 a contract for any person or business with any governmental or advisory agency;

27 4. Use for his own economic benefit or that of another party confidential information ~~which~~ that he has acquired by
28 reason of his public position and which is not available to the public;

29 5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to
30 influence him in the performance of his official duties. This subdivision shall not apply to any political contribution actually
31 used for political campaign or constituent service purposes and reported as required by Chapter 9 (§ 24.2-900 et seq.) of Title
32 24.2;

33 6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the
34 opportunity is being afforded him to influence him in the performance of his official duties;

35 7. Accept any honoraria for any appearance, speech, or article in which the officer or employee provides expertise or
36 opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for or
37 reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such
38 appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem
39 deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time. The prohibition in this
40 subdivision shall apply only to the Governor, Lieutenant Governor, Attorney General, Governor's Secretaries, and heads of
41 departments of state government;

42 8. Accept a gift from a person who has interests that may be substantially affected by the performance of the officer's
43 or employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to
44 question the officer's or employee's impartiality in the matter affecting the donor. Violations of this subdivision shall not be
45 subject to criminal law penalties; or

46 9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for
47 private gain. Violations of this subdivision shall not be subject to criminal law penalties.

48 **DRAFTING NOTE:** Technical corrections only.

49 ~~§ 2-1-639.4~~ 2.2-3104. Prohibited conduct for certain officers and employees of state government.

1 In addition to the prohibitions contained in ~~§ 2-1-630.4~~ 2.2-3103, no state officer or employee shall, during the or
2 year after the termination of his public employment or service, represent a client or act in a representative capacity on beh
3 of any person or group, for compensation, on any matter before the agency of which he was an officer or employee.

4 For the purposes of this section, "state officer or employee" shall mean (i) the Governor, Lieutenant Governor,
5 Attorney General, and officers appointed by the Governor, whether confirmation by the General Assembly or by either house
6 thereof is required or not, who are regularly employed on a full-time salaried basis; those officers and employees of executive
7 branch agencies who report directly to the agency head; and those at the level immediately below those who report directly to
8 the agency head and are at a ~~salary grade of sixteen~~ payband 6 or higher and (ii) the officers and professional employees of
9 the legislative branch designated by the joint rules committee of the General Assembly. For the purposes of this section, the
10 General Assembly and the legislative branch agencies shall be deemed one agency.

11 The prohibitions of this section shall apply only to persons engaged in activities that would require registration as a
12 lobbyist under ~~§ 2-1-782~~ 2.2-422.

13 Any person subject to the provisions of this section may apply to the Attorney General, as provided in ~~§ 2-1-630.23~~
14 2.2-3126, for an advisory opinion as to the application of the restriction imposed by this section on any post-public
15 employment position or opportunity.

16 **DRAFTING NOTE:** On the recommendation of the Secretary of Transportation, "salary grade of sixteen or higher" has been
17 replaced with "payband 6 or higher" to comport with compensation reform initiated in 2000. Under compensation reform,
18 salary grades no longer exist and have been replaced by paybands. Payband 6 includes former salary grades of 15, 16, and
19 17. As a result of the change to this section to "payband", those employees at the former salary grade of 15 will now be
20 included under the State and Local Government Conflict of Interests Act. The remainder of the changes to this section are
21 technical corrections.

22 Article 3.

23 Prohibited Conduct Relating to Contracts.

24 ~~§ 2-1-630.5~~ 2.2-3105. Application.

25 This article proscribes certain conduct relating to contracts by state and local government officers and employees.

26 **DRAFTING NOTE:** Technical corrections only.

27 ~~§ 2-1-630.6~~ 2.2-3106. Prohibited contracts by officers and employees of state government.

28 A. No officer or employee of any governmental agency of state government shall have a personal interest in a
29 contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

30 B. No officer or employee of any governmental agency of state government shall have a personal interest in a
31 contract with any other governmental agency of state government unless such contract is (i) awarded as a result of
32 competitive sealed bidding or competitive negotiation as defined in ~~§ 41-372.2-4301~~ or (ii) is awarded after a finding, in
33 writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best
34 interest of the public.

35 C. The provisions of this section shall not ~~be applicable~~ apply to:

36 1. An employee's personal interest in additional contracts of employment with his own governmental agency ~~which~~
37 ~~that~~ accrue to him because of a member of his immediate family, provided the employee does not exercise any control over
38 the employment or the employment activities of the member of his immediate family and the employee is not in a position to
39 influence those activities;

40 2. The personal interest of an officer or employee of a state institution of higher education in additional contracts of
41 employment with his own governmental agency ~~which that~~ accrue to him because of a member of his immediate family,
42 provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative
43 support positions at the educational institution, (ii) the governing board of the educational institution finds that it is in the best
44 interests of the institution and the Commonwealth for such dual employment to exist, and (iii) after such finding, the board
45 ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate or
46 make personnel decisions regarding the other;

47 3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of
48 state government;

49 4. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general
50 public;

51 5. An employee's personal interest in a contract between a ~~state~~ public institution of higher education in Virginia and
52 a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he
53 has authored or otherwise created such textbooks or materials;

1 6. Subject to approval by the board of visitors, an employee's personal interest in a contract between a ~~state-public~~
2 institution of higher education in Virginia ~~which-that~~ operates a school of medicine or dentistry and a not-for-profit nonstock
3 corporation ~~which-that~~ operates a clinical practice within such ~~state-public~~ institution of higher education and of which such
4 employee is a member or employee;

5 7. Subject to approval by the board of visitors, an employee's personal interest in a contract for research and
6 development or commercialization of intellectual property between a ~~state-public~~ institution of higher education in Virginia and
7 a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and
8 approved by ~~the state-such public~~ institution of higher education prior to the time at which the contract is entered into; (ii) the
9 employee promptly files a disclosure statement pursuant to § 2.1-639.15 and thereafter files such statement annually on or
10 before January 15; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council
11 of Higher Education; and (iv) no later than December 31 of each year, the institution files an annual report with the Secretary
12 of the Commonwealth disclosing each open contract entered subject to this provision, the names of the parties to each
13 contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the
14 conflict of interest, the institution's employee responsible for administering each contract, the details of the institution's
15 commitment or investment of resources or finances for each contract, and any other information requested by the Secretary
16 of the Commonwealth; or

17 8. Subject to approval by the board of visitors, an employee's personal interest in a contract between a ~~state-public~~
18 institution of higher education in Virginia and a business in which the employee has a personal interest, if (i) the personal
19 interest has been disclosed to the institution prior to the time the contract is entered into; (ii) the employee files a disclosure
20 statement pursuant to § ~~2.1-639.15~~ 2.2-3117 and thereafter annually on or before January 15; (iii) the employee does not
21 participate in the institution's decision to contract; (iv) the president of the institution finds and certifies in writing that the
22 contract is for goods and services needed for quality patient care by the institution's medical center, including the acquisition
23 of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution files an annual
24 report with the Secretary of the Commonwealth disclosing each open contract entered subject to this provision, the names of
25 the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement,
26 the nature of the conflict of interest, the institution's employee responsible for administering each contract, the details of the
27 institution's commitment or investment of resources or finances for each contract, and any other information requested by the
28 Secretary of the Commonwealth.

29 **DRAFTING NOTE:** Technical corrections only.

30 § ~~2.1-639.7~~ 2.2-3107. Prohibited contracts by members of county boards of supervisors, city councils and town
31 councils.

32 A. No person elected or appointed as a member of the governing body of a county, city or town shall have a
33 personal interest in (i) any contract with his governing body, or (ii) any contract with any governmental agency ~~which-that~~ is a
34 component part of his local government and which is subject to the ultimate control of the governing body of which he is a
35 member, or (iii) any contract other than a contract of employment with any other governmental agency if such person's
36 governing body appoints a majority of the members of the governing body of the second governmental agency.

37 B. The provisions of this section shall not ~~be applicable-apply~~ to:

38 1. A member's personal interest in a contract of employment provided (i) the officer or employee was employed by
39 the governmental agency prior to July 1, 1983, in accordance with the provisions of the former Conflict of Interests Act,
40 Chapter 22 (§ 2.1-347 et seq.) of Title 2.1 ~~of the Code of Virginia~~, as it existed on June 30, 1983, or (ii) the employment first
41 began prior to the member becoming a member of the governing body;

42 2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or

43 3. A contract awarded to a member of a governing body as a result of competitive sealed bidding where the
44 governing body has established a need for the same or substantially similar goods through purchases prior to the election or
45 appointment of the member to serve on the governing body. However, the member shall have no involvement in the
46 preparation of the specifications for such contract, and the remaining members of the governing body, by written resolution,
47 shall state that it is in the public interest for the member to bid on such contract.

48 **DRAFTING NOTE:** Technical corrections only.

49 § ~~2.1-639.7:1~~ 2.2-3108. Prohibited contracts by members of school boards.

50 A. No person elected or appointed as a member of a local school board shall have a personal interest in (i) any
51 contract with his school board or (ii) any contract with any governmental agency ~~which-that~~ is subject to the ultimate control of
52 the school board of which he is a member.

53 B. The provisions of this section shall not ~~be applicable-apply~~ to:

54 1. A member's personal interest in a contract of employment provided the employment first began prior to the
55 member becoming a member of the school board;

56 2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or

1 3. A contract awarded to a member of a school board as a result of competitive sealed bidding where the school
2 board has established a need for the same or substantially similar goods through purchases prior to the election or
3 appointment of the member to serve on the school board. However, the member shall have no involvement in the preparation
4 of the specifications for such contract, and the remaining members of the school board, by written resolution, shall state that it
5 is in the public interest for the member to bid on such contract.

6 **DRAFTING NOTE:** Technical corrections only.

7 | ~~§ 2-1-639.8~~ 2.2-3109. Prohibited contracts by other officers and employees of local governmental agencies.

8 A. No other officer or employee of any governmental agency of local government shall have a personal interest in a
9 contract with the agency of which he is an officer or employee other than his own contract of employment.

10 B. No officer or employee of any governmental agency of local government shall have a personal interest in a
11 contract with any other governmental agency ~~which that~~ is a component of the government of his county, city or town unless
12 such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as defined in § ~~44-37~~ 2.2-
13 4301 or is awarded as a result of a procedure embodying competitive principles as authorized by ~~subsection D of § 44-35~~
14 subdivisions 10 or 11 of § 2.2-4343 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental
15 agency that competitive bidding or negotiation is contrary to the best interest of the public.

16 C. The provisions of this section shall not be ~~applicable~~ apply to:

17 1. An employee's personal interest in additional contracts of employment with his own governmental agency ~~which~~
18 that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over
19 the employment or the employment activities of the member of his immediate family and the employee is not in a position to
20 influence those activities;

21 2. An officer's or employee's personal interest in a contract of employment with any other governmental agency
22 ~~which that~~ is a component part of the government of his county, city or town;

23 3. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general
24 public;

25 4. Members of local governing bodies who are subject to ~~§ 2-1-639.7~~ 2.2-3107; or

26 5. Members of local school boards who are subject to ~~§ 2-1-639.7:1~~ 2.2-3108.

27 **DRAFTING NOTE:** Technical corrections only.

28 | ~~§ 2-1-639.9~~ 2.2-3110. Further exceptions.

29 A. The provisions of ~~§§ 2-1-639.6 through 2-1-639.8~~ Article 3 (§ 2.2-3106 et seq.) of this chapter shall not apply to:

30 1. The sale, lease or exchange of real property between an officer or employee and a governmental agency,
31 provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange,
32 and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the
33 administrative head thereof;

34 2. The publication of official notices;

35 3. Contracts between the government or school board of a town or city with a population of less than 10,000 and an
36 officer or employee of that town or city government or school board when the total of such contracts between the town or city
37 government or school board and the officer or employee of that town or city government or school board or a business
38 controlled by him does not exceed \$10,000 per year or such amount exceeds \$10,000 and is less than \$25,000 but results
39 from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as
40 provided for in ~~§ 2-1-639.14~~ 2.2-3115;

41 4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of
42 income from the contracting firm or governmental agency in excess of \$10,000 per year, provided the officer or employee or a
43 member of his immediate family does not participate and has no authority to participate in the procurement or letting of such
44 contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the
45 procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public
46 record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

47 5. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or
48 employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities
49 in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of
50 public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the
51 contract;

52 6. Contracts for the purchase of goods or services when the contract does not exceed \$500;

53 7. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified
54 applicants are established solely by the administering governmental agency; or

8. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of this title-Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f) (4) of § 2.1-348 of Chapter 22 of this title-Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$22,500 or more.

DRAFTING NOTE: Technical corrections only.

Article 4.

Prohibited Conduct Relating to Transactions.

§ 2.1-630-10 2.2-3111. Application.

This article proscribes certain conduct by state and local government officers and employees having a personal interest in a transaction.

DRAFTING NOTE: Technical corrections only.

§ 2.1-630-11 2.2-3112. Prohibited conduct concerning personal interest in a transaction; exceptions.

A. Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction:

1. Shall disqualify himself from participating in the transaction if the transaction has application solely to property or a business in which he has a personal interest or he is unable to participate pursuant to subdivision 2 or 3-of this subsection. Any disqualification under the provisions of this subdivision shall be recorded in the public records of the officer's or employee's governmental or advisory agency. The officer or employee shall disclose his personal interest as required by § 2.1-630-13-E 2.2-3114 or § 2.1-630-14-E- 2.2-3115 and shall not vote or in any manner act on behalf of his agency in the transaction;

2. May participate in the transaction if he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and he complies with the declaration requirements of § 2.1-630-13-F-2.2-3114 or § 2.1-630-14-G 2.2-3115; or

3. May participate in the transaction if it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.

B. Disqualification under the provisions of this section shall not prevent any employee having a personal interest in a transaction in which his agency is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this chapter.

C. If disqualifications of officers or employees in accordance with this section leave less than the number required by law to act, the remaining member or members shall have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members. Notwithstanding any provisions of this chapter to the contrary, members of a local governing body whose sole interest in any proposed sale, contract of sale, exchange, lease or conveyance is by virtue of their employment by a business involved in a proposed sale, contract of sale, exchange, lease or conveyance, and where such member's or members' vote is essential to a constitutional majority required pursuant to Article VII, Section 9 of the Constitution of Virginia and § 15.1-307 15.2-2100, such member or members of the local governing body may vote and participate in the deliberations of the governing body concerning whether to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance. Official action taken under circumstances which-that violate this section may be rescinded by the agency on such terms as the interests of the agency and innocent third parties require.

D. The provisions of subsection A of this section shall not prevent an officer or employee from participating in a transaction merely because such officer or employee is a party in a legal proceeding of a civil nature concerning such transaction.

E. The provisions of subsection A of this section shall not prevent an employee from participating in a transaction regarding textbooks or other educational material for students at state institutions of higher education, when those textbooks or materials have been authored or otherwise created by the employee.

1 **DRAFTING NOTE:** Technical corrections only.

2 Article 5.

3 Disclosure Statements Required to be Filed.

4 ~~§ 2-1-630.12~~ 2.2-3113. Application.

5 This article requires disclosure of certain personal and financial interests by state and local government officers and
6 employees.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2-1-630.13~~ 2.2-3114. Disclosure by state officers and employees.

9 A. The Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of
10 Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation
11 Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation
12 Board, members of the Board of Trustees of the Virginia Retirement System, and members of the State Lottery Board and
13 other persons occupying such offices or positions of trust or employment in state government as may be designated by the
14 Governor or, in the case of officers or employees of the legislative branch, by the joint rules committees of the General
15 Assembly, shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and
16 such other information as is specified on the form set forth in ~~§ 2-1-630.15~~ 2.2-3117 and thereafter shall file such a statement
17 annually on or before January 15.

18 B. Nonsalaried citizen members of all policy and supervisory boards, commissions and councils ~~as designated in~~
19 ~~Chapter 1.4 (§ 9-6.25 et seq.) of Title 9 in the executive branch of state government,~~ other than the Commonwealth
20 Transportation Board, members of the Board of Trustees of the Virginia Retirement System, and the State Lottery Board,
21 shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is
22 specified on the form set forth in ~~§ 2-1-630.15~~ 2.2-3118 and thereafter shall file such form annually on or before January 15.
23 Nonsalaried citizen members of other boards, commissions and councils, including advisory boards, may be required to file a
24 disclosure form if so designated by the Governor, in which case the form shall be that set forth in ~~§ 2-1-630.15~~ 2.2-3118.

25 C. The disclosure forms required by subsections A and B ~~of this section~~ shall be provided by the Secretary of the
26 Commonwealth to each officer and employee so designated not later than November 30 of each year. Disclosure forms ^{s'}
27 be filed and maintained as public records for five years in the Office of the Secretary of the Commonwealth.

28 D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement
29 of their personal interests as required by § 24.2-502.

30 E. Any officer or employee of state government who has a personal interest in any transaction before the
31 governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that
32 transaction pursuant to ~~§ 2-1-630.14 A 1~~ 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of
33 the existence of his interest, and his disclosure shall be reflected in the public records of the agency for five years in the office
34 of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a
35 clerk, in the clerk's office.

36 F. An officer or employee of state government who is required to declare his interest pursuant to ~~§ 2-1-630.14 A 2~~
37 2.2-3112, shall declare his interest do so by stating (i) the transaction involved, (ii) the nature of the officer's or employee's
38 personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the
39 members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively,
40 and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for
41 his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as
42 appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five
43 years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection
44 prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the
45 next business day.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 2-1-630.14~~ 2.2-3115. Disclosure by local government officers and employees.

48 A. The members of every governing body and school board of each county and city and of towns with populations in
49 excess of 3,500 shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests
50 and other information as is specified on the form set forth in ~~§ 2-1-630.15~~ 2.2-3117 and thereafter shall file such a statement
51 annually on or before January 15.

52 Persons occupying such positions of trust appointed by governing bodies and persons occupying such positions of
53 employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condi^{ti}

1 to assuming office or employment, a disclosure statement of their personal interests and other information as is specified on
2 the form set forth in § ~~2-1-630-15~~ 2-2-3117 and thereafter shall file such a statement annually on or before January 15.

3 Persons occupying such positions of trust appointed by school boards and persons occupying such positions of
4 employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a
5 condition to assuming office or employment, a disclosure statement of their personal interests and other information as is
6 specified on the form set forth in § ~~2-1-630-15~~ 2-2-3117 and thereafter shall file such a statement annually on or before
7 January 15.

8 B. Nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing
9 body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is
10 specified on the form set forth in § ~~2-1-630-15~~ 42-2-3118 and thereafter shall file such form annually on or before January 15.

11 C. The disclosure forms required by subsections A and B ~~of this section~~ shall be provided by the Secretary of the
12 Commonwealth to the clerks of the governing bodies and school boards not later than November 30 of each year, and the
13 clerks of the governing body and school board shall distribute the forms to designated individuals no later than December 10
14 of each year. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective
15 governing body or school board.

16 D. Candidates for membership in the governing body or school board of any county, city or town with a population of
17 more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

18 E. Any officer or employee of local government who has a personal interest in any transaction before the
19 governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that
20 transaction pursuant to § ~~2-1-630-14~~ 2-2-3112 A 1, or otherwise elects to disqualify himself, shall forthwith make disclosure of
21 the existence of his interest, and his disclosure shall be reflected in the public records of the agency for five years in the office
22 of the administrative head of the officer's or employee's governmental or advisory agency.

23 F. In addition to any disclosure required by subsections A and B ~~of this section~~, in each county and city and in towns
24 with populations in excess of 3,500, members of planning commissions, boards of zoning appeals, real estate assessors, and
25 all county, city and town managers or executive officers shall make annual disclosures of all their interests in real estate
26 located in the county, city or town in which they are elected, appointed, or employed. Such disclosure shall include any
27 business in which such persons own an interest, or from which income is received, if the primary purpose of the business is to
28 own, develop or derive compensation through the sale, exchange or development of real estate in the county, city or town.
29 Such disclosure shall be filed as a condition to assuming office or employment, and thereafter shall be filed annually with the
30 clerk of the governing body of such county, city or town on or before January 15. Such disclosures shall be filed and
31 maintained as public records for five years. Forms for the filing of such reports shall be prepared and distributed by the
32 Secretary of the Commonwealth to the clerk of each governing body.

33 G. An officer or employee of local government who is required to declare his interest pursuant to § ~~2-1-630-14~~ 2-2-
34 3112 A.2. shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal
35 interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of
36 which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the
37 public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes of his agency
38 or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as
39 appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five
40 years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection
41 prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the
42 next business day.

43 **DRAFTING NOTE:** Technical corrections only.

44 § ~~2-1-630-14~~ 42-2-3116. Disclosure by certain constitutional officers.

45 For the purposes of this ~~Act~~ chapter, holders of the constitutional offices of treasurer, sheriff, attorney for the
46 Commonwealth, clerk of the circuit court and commissioner of the revenue of each county and city, shall be deemed to be
47 local officers and shall be required to file the Statement of Economic Interests set forth in § ~~2-1-630-15~~ 2-2-3117. These
48 officers shall file statements pursuant to § ~~2-1-630-14~~ 2-2-3115 and candidates shall file statements as required by § 24.1-167.

49 **DRAFTING NOTE:** Technical corrections only.

50 § ~~2-1-630-15~~ 2-2-3117. Disclosure form.

51 The disclosure form to be used for filings required by § ~~2-1-630-13~~ 2-2-3114 A and D, and § ~~2-1-630-14~~ 2-2-3115 A
52 and D shall be substantially as follows:

53 STATEMENT OF ECONOMIC INTERESTS.

54 Name

1 Office or position held or sought
2 Home address
3 Names of members of immediate family

4
5 DEFINITIONS AND EXPLANATORY MATERIAL.
6

7 "Immediate family" means (i) a spouse and (ii) any other person
8 residing in the same household as the officer or employee, who
9 is a dependent of the officer or employee or of whom the officer
10 or employee is a dependent.
11

12 "Dependent" means any person, whether or not related by blood or
13 marriage, who receives from the officer or employee, or provides
14 to the officer or employee, more than one-half of his financial
15 support.
16

17 "Business" means a corporation, partnership, sole proprietorship,
18 firm, enterprise, franchise, association, trust or foundation, or
19 any other individual or entity carrying on a business or
20 profession, whether or not for profit.
21

22 "Close financial association" does not mean an association based
23 on the receipt of retirement benefits or deferred compensation
24 from a business by which the person filing this statement is no
25 longer employed. "Close financial association" does not include an
26 association based on the receipt of compensation for work performed
27 by the person filing as an independent contractor of a business
28 that represents an entity before any state governmental agency when
29 the person filing has had no communications with the state
30 governmental agency.
31

32 "Gift" means any gratuity, favor, discount, entertainment,
33 hospitality, loan, forbearance, or other item having monetary value.
34 It includes services as well as gifts of transportation, local
35 travel, lodgings and meals, whether provided in-kind, by purchase
36 of a ticket, payment in advance or reimbursement after the expense
37 has been incurred. "Gift" shall not include any offer of a ticket
38 or other admission or pass unless the ticket, admission, or pass is
39 used. "Gift" shall not include honorary degrees and presents from
40 relatives. "Relative" means the donee's spouse, child, uncle, aunt,
41 niece, or nephew; a person to whom the donee is engaged to be
42 married; the donee's or his spouse's parent, grandparent,
43 grandchild, brother, or sister; or the donee's brother's or
44 sister's spouse.
45

46 TRUST. If you or your immediate family, separately or together,
47 are the only beneficiaries of a trust, treat the trust's assets
48 as if you own them directly. If you or your immediate family has
49 a proportional interest in a trust, treat that proportion of the
50 trust's assets as if you own them directly. For example, if you
51 and your immediate family have a one-third interest in a trust,
52 complete your Statement as if you own one-third of each of the
53 trust's assets. If you or a member of your immediate family
54 created a trust and can revoke it without the beneficiaries'
55 consent, treat its assets as if you own them directly.
56

57 REPORT TO THE BEST OF INFORMATION AND BELIEF. Information
58 required on this Statement must be provided on the basis of the
59 best knowledge, information and belief of the individual filing
60 the Statement as of the date of this report unless otherwise
61 stated.
62

COMPLETE ITEMS 1 THROUGH 10. REFER TO SCHEDULES ONLY IF DIRECTED.

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You may attach additional explanatory information.

1. Offices and Directorships.

Are you or a member of your immediate family a paid officer or paid director of a business?

EITHER check NO / / OR check YES / / and complete Schedule A.

2. Personal Liabilities.

Do you or a member of your immediate family owe more than \$10,000 to any one creditor including contingent liabilities? (Exclude debts to any government and loans secured by recorded liens on property at least equal in value to the loan.)

EITHER check NO / / OR check YES / / and complete Schedule B.

3. Securities.

Do you or a member of your immediate family, directly or indirectly, separately or together, own securities valued in excess of \$10,000 invested in one business? Account for mutual funds, limited partnerships and trusts.

EITHER check NO / / OR check YES / / and complete Schedule C.

4. Payments for Talks, Meetings, and Publications.

During the past 12 months did you receive lodging, transportation, money, or anything else of value with a combined value exceeding \$200 for a single talk, meeting, or published work in your capacity as an officer or employee of your agency?

EITHER check NO / / OR check YES / / and complete Schedule D.

5. Gifts.

During the past 12 months did a business, government, or individual other than a relative or personal friend (i) furnish you with any gift or entertainment at a single event, and the value received by you exceeded \$50 in value or (ii) furnish you with gifts or entertainment in any combination and the value received by you exceeded \$100 in total value; and for which you neither paid nor rendered services in exchange? Account for entertainment events only if the average value per person attending the event exceeded \$50 in value.

Account for all business entertainment (except if related to your private profession or occupation) even if unrelated to your official duties.

EITHER check NO / / OR check YES / / and complete Schedule E.

6. Salary and Wages.

List each employer that pays you or a member of your immediate family salary or wages in excess of \$10,000 annually. (Exclude state or local government or advisory agencies.)

If no reportable salary or wages, check here / /.

.....
.....
.....

7. Business Interests.

Do you or a member of your immediate family, separately or together, operate your own business, or own or control an interest in excess of \$10,000 in a business?

EITHER check NO / / OR check YES / / and complete Schedule F.

8. Payments for Representation and Other Services.

8A. Did you represent any businesses before any state governmental

1 agencies, excluding courts or judges, for which you received
2 total compensation during the past 12 months in excess of
3 \$1,000, excluding compensation for other services to such
4 businesses and representation consisting solely of the filing
5 of mandatory papers and subsequent representation regarding the
6 mandatory papers? (Officers and employees of local
7 governmental and advisory agencies do NOT need to answer this
8 question or complete Schedule G-1.)
9 EITHER check NO / / OR check YES / / and complete
10 Schedule G-1.

11 8B. Subject to the same exceptions as in 8A, did persons with whom
12 you have a close financial association (partners, associates or
13 others) represent any businesses before any state governmental
14 agency for which total compensation was received during the past
15 12 months in excess of \$1,000? (Officers and employees of local
16 governmental and advisory agencies do NOT need to answer this
17 question or complete Schedule G-2.)
18 EITHER check NO / / OR check YES / / and complete
19 Schedule G-2.

20 8C. Did you or persons with whom you have a close financial
21 association furnish services to businesses operating in
22 Virginia for which total compensation in excess of \$1,000
23 was received during the past 12 months?
24 EITHER check NO / / OR check YES / / and complete
25 Schedule G-3.

26 9. Real Estate.

27 9A. State Officers and Employees.
28 Do you or a member of your immediate family hold an interest,
29 including a partnership interest, valued at \$10,000 or more in
30 real property (other than your principal residence) for which
31 you have not already listed the full address on Schedule F?
32 Account for real estate held in trust.
33 EITHER check NO / / OR check YES / / and complete
34 Schedule H-1.

35 9B. Local Officers and Employees.
36 Do you or a member of your immediate family hold an interest,
37 including a partnership interest, valued at \$10,000 or more in
38 real property located in the county, city or town in which you
39 serve or in a county, city or town contiguous to the county,
40 city or town in which you serve (other than your principal
41 residence) for which you have not already listed the full
42 address on Schedule F? Account for real estate held in trust.
43 EITHER check NO / / OR check YES / / and complete
44 Schedule H-2.

45 10. Real Estate Contracts with Governmental Agencies.
46 Do you or a member of your immediate family hold an interest
47 valued at more than \$10,000 in real estate, including a
48 corporate, partnership, or trust interest, option,
49 easement, or land contract, which real estate is the
50 subject of a contract, whether pending or completed within
51 the past 12 months, with a governmental agency? If the
52 real estate contract provides for the leasing of the property
53 to a governmental agency, do you or a member of your immediate
54 family hold an interest in the real estate valued at more than
55 \$1,000? Account for all such contracts whether or not your
56 interest is reported in Schedule F, H-1, or H-2. This
57 requirement to disclose an interest in a lease does not apply
58 to an interest derived through an ownership interest in a
59 business unless the ownership interest exceeds three percent
60 of the total equity of the business.
61 EITHER check NO / / OR check YES / / and complete Schedule I.
62

1 Statements of Economic Interests are open for public inspection.

2

3

AFFIRMATION BY ALL FILERS.

4

5

I swear or affirm that the foregoing information is full, true and correct to the best of my knowledge.

6

7

8

Signature.....

9

Commonwealth of Virginia

10

.....of.....to wit:

11

The foregoing disclosure form was acknowledged before me

12

This.....day of....., 19.., by

13

Notary Public

14

My commission expires.....

15

(Return only if needed to complete Statement.)

16

17

SCHEDULES

18

TO

19

STATEMENT OF ECONOMIC INTERESTS.

20

21

NAME.....

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23

SCHEDULE A - OFFICES AND DIRECTORSHIPS.

24

25

Identify each business of which you or a member of your immediate family is a paid officer or paid director.

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31

Name of Business	Address of Business	Position Held
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RETURN TO ITEM 2

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SCHEDULE B - PERSONAL LIABILITIES.

42

43

Report personal liability by checking each category. Report only debts in excess of \$10,000. Do not report debts to any government. Do not report loans secured by recorded liens on property at least equal in value to the loan.

44

45

46

47

Report contingent liabilities below and indicate which debts are contingent.

48

49

50

1. My personal debts are as follows:

51

52

53

54

55

Check appropriate categories	Check one	
	\$10,001 to \$50,000	More than \$50,000
Banks
Savings institutions
Other loan or finance companies

56

57

58

59

60

61

62

1 Insurance companies
 2 Stock, commodity or other brokerage
 3 companies
 4 Other businesses:
 5 (State principal business activity
 6 for each creditor.)
 7
 8
 9 Individual creditors:
 10 (State principal business or
 11 occupation of each creditor.)
 12
 13
 14 -----
 15 -----

17 2. The personal debts of the members of my immediate family are as
 18 follows:
 19
 20 -----
 21 -----

	Check	Check one	
	appropriate	\$10,001 to	More than
	categories	\$50,000	\$50,000
27 Banks
28 Savings institutions
29 Other loan or finance companies
30 Insurance companies
31 Stock, commodity or other brokerage
32 companies
33 Other businesses:			
34 (State principal business activity			
35 for each creditor.)
36
37
38 Individual creditors:			
39 (State principal business or			
40 occupation of each creditor.)
41
42
43
44

45 RETURN TO ITEM 3

47 SCHEDULE C - SECURITIES.

49 "Securities" INCLUDES stocks, bonds, 50 mutual funds, limited partnerships, 51 and commodity futures contracts.	"Securities" EXCLUDES 52 certificates of deposit, 53 money market funds, annuity 54 contracts, and insurance policies.
--	--

55 Identify each business or Virginia governmental entity in which
 56 you or a member of your immediate family, directly or indirectly,
 57 separately or together, own securities valued in excess of
 58 \$10,000.

60 Do not list U.S. Bonds or other government securities not issued
 61 by the Commonwealth of Virginia or its authorities, agencies, or
 62 local governments. Do not list organizations that do not do

1 business in this Commonwealth, but most major businesses conduct
2 business in Virginia. Account for securities held in trust.

3
4 If no reportable securities, check here / /.

5 -----
6 -----

7
8 Check one

9 Type of Security \$10,001 More
10 Type of (stocks, bonds, mutual to than
11 Name of Issuer Entity funds, etc.) \$50,000 \$50,000

12
13
14
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17 -----
18 -----
19 RETURN TO ITEM 4

20
21 SCHEDULE D - PAYMENTS FOR TALKS, MEETINGS, AND PUBLICATIONS.

22
23 List each source from which you received during the past 12 months
24 lodging, transportation, money, or any other thing of value
25 (excluding meals or drinks coincident with a meeting) with
26 combined value exceeding \$200 for your presentation of a single
27 talk, participation in one meeting, or publication of a work in
28 your capacity as an officer or employee of your agency.

29
30 List payments or reimbursements by an advisory or governmental
31 agency only for meetings or travel outside the Commonwealth.

32
33 List a payment even if you donated it to charity.

34
35 Do not list information about a payment if you returned it within
36 60 days or if you received it from an employer already listed
37 under Item 6 or from a source of income listed on Schedule F.

38
39 If no payment must be listed, check here / /.

40 -----
41 -----

42
43 Type of Payment
44 (e.g., ~~Honoraria~~,
45 Travel reimburse-
46 ment, etc.)

46 Payer Approximate Value Circumstances
47
48
49
50

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52 -----
53 -----
54 RETURN TO ITEM 5

55
56 SCHEDULE E - GIFTS.

57
58 List each business, governmental entity, or individual that,
59 during the past 12 months, (i) furnished you with any gift or
60 entertainment at a single event and the value received by
61 you exceeded \$50 in value, or (ii) furnished you with gifts or
62 entertainment in any combination and the value received by you

exceeded \$100 in total value; and for which you neither paid nor rendered services in exchange. List each such gift or event. Do not list entertainment events unless the average value per person attending the event exceeded \$50 in value. Do not list business entertainment related to your private profession or occupation. Do not list gifts or other things of value given by a relative or personal friend for reasons clearly unrelated to your public position. Do not list campaign contributions publicly reported as required by Chapter 9 (§ 24.2-900 et seq.) of Title 24.2 of the Code of Virginia.

Name of Business, Organization, or Individual	City or County and State	Gift or Event	Approximate Value
.....
.....
.....
.....

RETURN TO ITEM 6

SCHEDULE F - BUSINESS INTERESTS.

Complete this Schedule for each self-owned or family-owned business (including rental property, a farm, or consulting work), partnership, or corporation in which you or a member of your immediate family, separately or together, own an interest having a value in excess of \$10,000.

If the enterprise is owned or operated under a trade, partnership, or corporate name, list that name; otherwise, merely explain the nature of the enterprise. If rental property is owned or operated under a trade, partnership, or corporate name, list the name only; otherwise, give the address of each property. Account for business interests held in trust.

Name of Business, Corporation, Partnership, Farm; Address of Rental Property	City or County and State	Nature of Enterprise (farming, law, rental property, etc.)	\$50,000 or less	More than \$50,000
.....
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RETURN TO ITEM 8

SCHEDULE G-1 - PAYMENTS FOR REPRESENTATION BY YOU.

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List the businesses you represented before any state governmental agency, excluding any court or judge, for which you received total compensation during the past 12 months in excess of \$1,000, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by you.

Identify each business, the nature of the representation and the amount received by dollar category from each such business. You may state the type, rather than name, of the business if you are required by law not to reveal the name of the business represented by you.

Only STATE officers and employees should complete this Schedule.

Name of Business	Type of Business	Purpose of Representation	Name of Agency	\$1,001 to \$10,000	\$10,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	\$250,001 and over
.....
.....
.....
.....

SCHEDULE G-2 - PAYMENTS FOR REPRESENTATION BY ASSOCIATES.

List the businesses that have been represented before any state governmental agency, excluding any court or judge, by persons who are your partners, associates or others with whom you have a close financial association and who received total compensation in excess of \$1,000 for such representation during the past 12 months, excluding representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by your partners, associates or others with whom you have a close financial association.

Identify such businesses by type and also name the state governmental agencies before which such person appeared on behalf of such businesses.

Only STATE officers and employees should complete this Schedule.

Type of Business	Name of State Governmental Agency
.....
.....
.....

1 -----
 2
 3 SCHEDULE G-3 - PAYMENTS FOR SERVICES GENERALLY.
 4

5 Indicate below types of businesses that operate in Virginia to
 6 which services were furnished by you or persons with whom you
 7 have a close financial association and for which total compen-
 8 sation in excess of \$1,000 was received during the past 12 months.
 9

10 Identify opposite each category of businesses listed below (i)
 11 the type of business, (ii) the type of service rendered and
 12 (iii) the value by dollar category of the compensation received
 13 for all businesses falling within each category.
 14

15 -----
 16 -----

	Check	Type	Value of Compensation				
	if	of					
	ser-	ser-					
	vices	vice					
	were	ren-	\$1,001	\$10,001	\$50,001	\$100,001	\$250,001
	ren-	dered	to	to	to	to	and
	dered		\$10,000	\$50,000	\$100,000	\$250,000	over
25	Electric						
26	utilities	.....				
27	Gas util-						
28	ities	.....				
29	Telephone						
30	utilities	.....				
31	Water util-						
32	ities	.....				
33	Cable tele-						
34	vision						
35	companies	.....				
36	Interstate						
37	transporta-						
38	tion com-						
39	panies	.....				
40	Intrastate						
41	transporta-						
42	tion com-						
43	panies	.....				
44	Oil or gas						
45	retail com-						
46	panies	.....				
47	Banks	.....				
48	Savings						
49	institutions	.....				
50	Loan or fi-						
51	nance com-						
52	panies	.....				
53							
54							
55	Manufactur-						
56	ing com-						
57	panies (state						
58	type of pro-						
59	duct, e.g.,						
60	textile, fur-						
61	niture, etc.)	.....				
62	Mining com-						

2 panies
 3 Life insur-
 4 ance com-
 5 panies
 6 Casualty in-
 7 surance com-
 8 panies
 9 Other insur-
 10 ance com-
 11 panies
 12 Retail com-
 13 panies
 14 Beer, wine
 15 or liquor
 16 companies or
 17 distributors.....
 18 Trade asso-
 19 ciations
 20 Professional
 21 associations.....
 22 Associations
 23 of public
 24 employees or
 25 officials
 26 Counties,
 27 cities or
 28 towns
 29 Labor organi-
 zations
 Other

32 -----
 33 -----

RETURN TO ITEM 9

36 SCHEDULE H-1 - REAL ESTATE - STATE OFFICERS AND EMPLOYEES.

37
 38 List real estate other than your principal residence in which
 39 you or a member of your immediate family holds an interest,
 40 including a partnership interest, option, easement, or land
 41 contract, valued at \$10,000 or more. You may list each parcel
 42 of real estate individually if you wish.
 43

44 -----
 45 -----

47 List each location	48 Describe the type of	49 If the real estate
50 (state, and county	51 real estate you own	52 is owned or recorded
53 or city) where you	54 in each location	55 in a name other than
56 own real estate.	57 (business, recreational,	58 your own, list that
	59 apartment, commercial,	name.
	open land, etc.).	
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62 SCHEDULE H-2 - REAL ESTATE - LOCAL OFFICERS AND EMPLOYEES.

1 List real estate located in your county, city, or town, and any
 2 contiguous county, city, or town other than your principal
 3 residence in which you or a member of your immediate family holds
 4 an interest, including a partnership interest, option, easement,
 5 or land contract, valued at \$10,000 or more. You may list each
 6 parcel of real estate individually if you wish.
 7

8 -----
 9 -----

10 List each location 11 (state, and county 12 or city) where you 13 own real estate.	14 Describe the type of 15 real estate you own 16 in each location 17 (business, recreational, 18 apartment, commercial, 19 open land, etc.).	20 If the real estate 21 is owned or recorded 22 in a name other than 23 your own, list that 24 name.
25	26	27
28	29	30
31	32	33
34	35	36
37	38	39
40	41	42
43	44	45
46	47	48
49	50	51
52	53	54
55	56	57
58	59	60
61	62	63

RETURN TO ITEM 10

25 SCHEDULE I - REAL ESTATE CONTRACTS WITH GOVERNMENTAL AGENCIES.

27 List all contracts, whether pending or completed within the
 28 past 12 months, with a governmental agency for the sale
 29 or exchange of real estate in which you or a member of
 30 your immediate family holds an interest, including a corporate,
 31 partnership or trust interest, option, easement, or land
 32 contract, valued at \$10,000 or more. List all contracts with a
 33 governmental agency for the lease of real estate in which you or
 34 a member of your immediate family holds such an interest valued
 35 at \$1,000 or more. This requirement to disclose an interest in a
 36 lease does not apply to an interest derived through an ownership
 37 interest in a business unless the ownership interest exceeds
 38 three percent of the total equity of the business.
 39 State officers and employees report contracts with state agencies.
 40 Local officers and employees report contracts with local agencies.
 41 -----
 42 -----

44 List your real 45 estate interest 46 and the person 47 or entity, 48 including the 49 type of entity, 50 which is party 51 to the contract. 52 Describe any 53 management role 54 and the percentage 55 ownership interest 56 you or your 57 immediate family 58 member has in the 59 real estate or entity.	60 List each 61 governmental agency 62 which is a party to the contract and in- dicate the county or city where the real estate is located.	63 State the annual 64 income from the 65 contract, and the 66 amount, if any, of 67 income you or any 68 immediate family 69 member derives 70 annually from the 71 contract.
72	73	74
75	76	77
78	79	80
81	82	83
84	85	86
87	88	89
90	91	92
93	94	95
96	97	98
99	100	101

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4

5 **DRAFTING NOTE:** Technical corrections. In Schedule D, the term "honoraria" has been deleted since the receipt of honoraria is
6 prohibited under proposed § 2.2-3107 (existing 2.1-639.7).

7 ~~§ 2.1-639.15~~; 2.2-3118. Disclosure form; certain citizen members.

8 A. The financial disclosure form to be used for filings required pursuant to subsection B of § ~~2.1-639.13~~ 2.2-3114 and
9 subsection B of § ~~2.1-639.14~~ 2.2-3115 shall be substantially as follows:

10 DEFINITIONS AND EXPLANATORY MATERIAL.

11 "Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or
12 foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

13 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household as the filer, who is a
14 dependent of the filer or of whom the filer is a dependent.

15 "Dependent" means any person, whether or not related by blood or marriage, who receives from the filer, or provides
16 to the filer, more than one-half of his financial support.

17 "Personal interest" means, for the purposes of this form only, a personal and financial benefit or liability accruing to a
18 filer or a member of his immediate family. Such interest shall exist by reason of (i) ownership in real or personal property,
19 tangible or intangible; (ii) ownership in a business; (iii) income from a business; or (iv) personal liability on behalf of a
20 business; however, unless the ownership interest in a business exceeds three percent of the total equity of the business, or
21 the liability on behalf of a business exceeds three percent of the total assets of the business, or the annual income, and/or
22 property or use of such property, from the business exceeds \$10,000 or may reasonably be anticipated to exceed \$10,000,
23 such interest shall not constitute a "personal interest."
24

25 Name
26 Office or position held or to be held
27
28 Address

30 I. FINANCIAL INTERESTS

31
32 My personal interests and those of my immediate family are as
33 follows:

34 Include all forms of personal interests held at the time of filing:
35 real estate, stocks, bonds, equity interests in proprietorships and
36 partnerships. You may exclude:

- 37 1. Deposits and interest bearing accounts in banks, savings
38 institutions and other institutions accepting such
39 deposits or accounts;
40 2. Interests in any business, other than a news medium, representing
41 less than three percent of the total equity value of the business;
42 3. Liability on behalf of any business representing less than three
43 percent of the total assets of such business; and
44 4. Income (other than from salary) less than \$10,000 annually from
45 any business. You need not state the value of any interest. You must
46 state the name or principal business activity of each business in
47 which you have a personal interest.

- 48 A. My personal interests are:
49 1. Residence, address, or, if no address, location
50 2. Other real estate, address, or, if no address, location
51 3. Name or principal business activity of each business in which
52 stock, bond or equity interest is held

- 53 B. The personal interests of my immediate family are:
54 1. Real estate, address or, if no address, location
55 2. Name or principal business activity of each business in which
56 stock, bond or equity interest is held

57
58 II. OFFICES, DIRECTORSHIPS AND SALARIED EMPLOYMENTS

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The paid offices, paid directorships and salaried employments which I hold or which members of my immediate family hold and the businesses from which I or members of my immediate family receive retirement benefits are as follows:
(You need not state any dollar amounts.)

A. My paid offices, paid directorships and salaried employments are:

Position held	Name of business
.....
.....
.....

B. The paid offices, paid directorships and salaried employments of members of my immediate family are:

Position held	Name of business
.....
.....
.....

III. BUSINESSES TO WHICH SERVICES WERE FURNISHED

A. The businesses I have represented before any state governmental agency, excluding any court or judge, for which I have received total compensation in excess of \$1,000 during the preceding year, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers, are as follows:

Identify businesses by name and name the state governmental agencies before which you appeared on behalf of such businesses.

Name of business	Name of governmental agency
.....
.....
.....

B. The businesses that, to my knowledge, have been represented before any state governmental agency, excluding any court or judge, by persons with whom I have a close financial association and who received total compensation in excess of \$1,000 during the preceding year, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers, are as follows:

Identify businesses by type and name the state governmental

agencies before which such person appeared on behalf of such businesses.

3
4 -----
5 -----
6
7 Type of business Name of state governmental agency
8
9
10
11 -----
12 -----
13

14 C. All other businesses listed below that operate in Virginia to
15 which services were furnished and for which total compensation in
16 excess of \$1000 was received during the preceding year:

17 Check each category of business to which services were furnished.

- 18 -----
- 19 -----
- 20 -----
- 21
- 22 Electric utilities
- 23 Gas utilities
- 24 Telephone utilities
- 25 Water utilities
- 26 Cable television companies
- 27 Intrastate transportation companies
- 28 Interstate transportation companies
- 29 Oil or gas retail companies
- 30 Banks
- Savings institutions
- Loan or finance companies
- 33 Manufacturing companies (state type of product, e.g.,
- 34 textile, furniture, etc.)
- 35 Mining companies
- 36 Life insurance companies
- 37 Casualty insurance companies
- 38 Other insurance companies
- 39 Retail companies
- 40 Beer, wine or liquor companies or distributors
- 41 Trade associations
- 42 Professional associations
- 43 Associations of public employees or officials
- 44 Counties, cities or towns
- 45 Labor organizations
- 46
- 47 -----
- 48 -----

49
50 IV. COMPENSATION FOR EXPENSES

51
52 The persons, associations, or other sources other than my
53 governmental agency from which I or a member of my immediate family
54 received remuneration in excess of \$200 during the preceding year,
55 in cash or otherwise, as honorariums or payment of expenses in
56 connection with my attendance at any meeting or other function to
57 which I was invited in my official capacity are as follows:

58 -----

59 -----

60

1	Description	Amount of remuneration
62 Name of Source	of occasion	for each occasion

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B. The provisions of Part III A and B of the disclosure form prescribed by this section shall not be applicable to officers and employees of local governmental and local advisory agencies.

C. Except for real estate located within the county, city or town in which the officer or employee serves or a county, city or town contiguous to the county, city or town in which the officer or employee serves, officers and employees of local governmental or advisory agencies shall not be required to disclose under Part I of the form any other interests in real estate.

DRAFTING NOTE: Technical corrections only.

Article 6.

School Boards and Employees of School Boards.

~~§ 2-1-639-16~~ 2.2-3119. Additional provisions applicable to school boards, and employees of school boards.

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or

2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher's aide by a school board prior to the inception of such relationship; or

3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B. 1., B. 2., and B. 3. ~~of subsection B~~ shall apply only if the prior employment has been in the same school division where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

DRAFTING NOTE: Technical corrections only.

Article 7.

Penalties and Remedies.

~~§ 2-1-639-17~~ 2.2-3120. Knowing violation of chapter a misdemeanor.

Any person who knowingly violates any of the provisions of Articles 2 through 6 (~~§§ 2-1-639-3- 2.2-3102 through 2-1-639-16 2.2-3119~~) of this chapter shall be guilty of a Class 1 misdemeanor, except that any member of a local governing body who knowingly violates § 2-1-639-11-A 2.2-3112 or § 2-1-639-14-C or E 2.2-3115 shall be guilty of a Class 3 misdemeanor. A knowing violation under this section is one in which the person engages in conduct, performs an act or refuses to perform an act when he knows that the conduct is prohibited or required by this chapter.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-639-18~~ 2.2-3121. Advisory opinions.

1 A. A state officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation
2 resulted from his good faith reliance on a written opinion of the Attorney General and the opinion was made after a full
3 disclosure of the facts.

4 B. A local officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation
5 resulted from his good faith reliance on a written opinion of the attorney for the Commonwealth and the opinion was made
6 after a full disclosure of the facts.

7 C. If any officer or employee serving at the local level of government is charged with a knowing violation of this
8 chapter, and the alleged violation resulted from his reliance upon a written opinion of his city, county or town attorney, made
9 after a full disclosure of the facts, that such action was not in violation of this chapter, then the officer or employee shall have
10 the right to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate this chapter.

11 **DRAFTING NOTE:** Technical corrections only.

12 | ~~§ 2-1-630.10~~ 2.2-3122. Knowing violation of chapter constitutes malfeasance in office or employment.

13 Any person who knowingly violates any of the provisions of this chapter shall be guilty of malfeasance in office or
14 employment. Upon conviction thereof, the judge or jury trying the case, in addition to any other fine or penalty provided by
15 law, may order the forfeiture of ~~said~~ such office or employment.

16 **DRAFTING NOTE:** Technical corrections only.

17 | ~~§ 2-1-630.20~~ 2.2-3123. Invalidation of contract; rescision of sales.

18 A. Any contract made in violation of ~~§ 2-1-630.42.2-3103~~ or ~~§§ 2-1-630.62.2-3106~~ through ~~2-1-630.82.2-3109~~ may be
19 declared void and may be rescinded by the governing body of the contracting or selling governmental agency within five
20 years of the date of such contract. In cases in which the contract is invalidated, the contractor shall retain or receive only the
21 reasonable value, with no increment for profit or commission, of the property or services furnished prior to the date of
22 receiving notice that the contract has been voided. In cases of rescision of a contract of sale, any refund or restitution shall be
23 made to the contracting or selling governmental agency.

24 B. Any purchase by an officer or employee made in violation of ~~§ 2-1-630.42.2-3103~~ or ~~§§ 2-1-630.62.2-3106~~
25 through ~~2-1-630.82.2-3109~~ may be rescinded by the governing body of the contracting or selling governmental agency within
26 five years of the date of such purchase.

27 **DRAFTING NOTE:** Technical corrections only.

28 | ~~§ 2-1-630.24~~ 2.2-3124. Forfeiture of money, etc., derived from violation of this chapter.

29 In addition to any other fine or penalty provided by law, any money or other thing of value derived by an officer or
30 employee from a violation of ~~§§ 2-1-630.42.2-3103~~ through ~~2-1-630.42.2-3112~~ shall be forfeited and, in the event of a
31 knowing violation, there may also be imposed a civil penalty in an amount equal to the amount of money or thing of value
32 forfeited to the Commonwealth or the local government as the case may be. If the thing of value received by the officer or
33 employee in violation of this chapter should enhance in value between the time of the violation and the time of discovery of
34 the violation, the greater value shall determine the amount of forfeiture.

35 **DRAFTING NOTE:** Technical corrections only.

36 | ~~§ 2-1-630.22~~ 2.2-3125. Limitation of actions.

37 The statute of limitations for the criminal prosecution of a person for violation of any provision of this chapter shall be
38 one year from the time the Attorney General, if the violation is by a state officer or employee, or the attorney for the
39 Commonwealth, if the violation is by a local officer or employee, has actual knowledge of the violation or five years from the
40 date of the violation, whichever event occurs first. Any prosecution for malfeasance in office shall be governed by the statute
41 of limitations provided by law.

42 **DRAFTING NOTE:** Technical corrections only.

43 | ~~§ 2-1-630.23~~ 2.2-3126. Enforcement.

44 A. The provisions of this chapter relating to an officer or employee serving at the state level of government shall be
45 enforced by the Attorney General.

46 In addition to any other powers and duties prescribed by law, the Attorney General shall have the following powers
47 and duties within the area for which he is responsible under this section:

48 1. He shall advise the agencies of state government and officers and employees serving at the state level of
49 government on appropriate procedures for complying with the requirements of this chapter. He may review any disclosure
50 statements, without notice to the affected person, for the purpose of determining satisfactory compliance, and shall
51 investigate matters ~~which~~ that come to his attention reflecting possible violations of the provisions of this chapter by officers
52 and employees serving at the state level of government;

1 2. If he determines that there is a reasonable basis to conclude that any officer or employee serving at the state level
2 of government has knowingly violated any provision of this chapter, he shall designate an attorney for the Commonwealth
3 who shall have complete and independent discretion in the prosecution of such officer or employee;

4 3. He shall render advisory opinions to any state officer or employee who seeks advice as to whether the facts in a
5 particular case would constitute a violation of the provisions of this chapter. He shall determine which opinions or portions
6 thereof are of general interest to the public and may, from time to time, be published.

7 Irrespective of whether an opinion of the Attorney General has been requested and rendered, any person has the
8 right to seek a declaratory judgment or other judicial relief as provided by law.

9 B. The provisions of this chapter relating to an officer or employee serving at the local level of government shall be
10 enforced by the attorney for the Commonwealth within the political subdivision for which he is elected.

11 Each attorney for the Commonwealth shall be responsible for prosecuting violations by an officer or employee
12 serving at the local level of government and, if the Attorney General designates such attorney for the Commonwealth,
13 violations by an officer or employee serving at the state level of government. In the event the violation by an officer or
14 employee serving at the local level of government involves more than one local jurisdiction, the Attorney General shall
15 designate which of the attorneys for the Commonwealth of the involved local jurisdictions shall enforce the provisions of this
16 chapter with regard to such violation.

17 Each attorney for the Commonwealth shall establish an appropriate written procedure for implementing the
18 disclosure requirements of local officers and employees of his county, city or town, and for other political subdivisions, whose
19 principal offices are located within the jurisdiction served by such attorney for the Commonwealth. The attorney for the
20 Commonwealth shall provide a copy of this act to all local officers and employees in the jurisdiction served by such attorney
21 who are required to file a disclosure statement pursuant to Article 5 (~~§ 2-1-639-12~~ 2-2-3113 et seq.) of this chapter. Failure to
22 receive a copy of the act shall not be a defense to such officers and employees if they are prosecuted for violations of the act.

23 Each attorney for the Commonwealth shall render advisory opinions as to whether the facts in a particular case
24 would constitute a violation of the provisions of this chapter to the governing body and any local officer or employee in his
25 jurisdiction and to political subdivisions other than a county, city or town, including regional political subdivisions whose
26 principal offices are located within the jurisdiction served by such attorney for the Commonwealth. In case the opinion given
27 by the attorney for the Commonwealth indicates that the facts would constitute a violation, the officer or employee affected
28 thereby may request that the Attorney General review the opinion. A conflicting opinion by the Attorney General shall act to
29 revoke the opinion of the attorney for the Commonwealth. The Attorney General shall determine which of his reviewing
30 opinions or portions thereof are of general interest to the public and may, from time to time, be published.

31 Irrespective of whether an opinion of the attorney for the Commonwealth or the Attorney General has been
32 requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law.

33 **DRAFTING NOTE:** Technical corrections only.

34 ~~§ 2-1-639-24~~ 2-2-3127. Venue.

35 Any prosecution for a violation involving an officer serving at the state level of government shall be brought in the
36 Circuit Court of the City of Richmond. Any prosecution for a violation involving an employee serving at the state level of
37 government shall be within the jurisdiction in which the employee has his principal place of state employment.

38 Any proceeding provided in this chapter shall be brought in a court of competent jurisdiction within the county or city
39 in which the violation occurs if the violation involves an officer or employee serving at the local level of government.

40 **DRAFTING NOTE:** Technical corrections only.

41 CHAPTER 32.

42 WORKFORCE TRANSITION ACT OF 1995.

43 ~~§ 2-1-116-20~~ 2-2-3200. Short title; purpose.

44 A. This chapter shall be known as the Workforce Transition Act of 1995.

45 B. The purpose of this chapter is to provide a transitional severance benefit, under the conditions specified, to
46 eligible state employees who are involuntarily separated from their employment with the Commonwealth. "Involuntary
47 separation" includes, but is not limited to, terminations and layoffs from employment with the Commonwealth, or being placed
48 on leave without pay-layoff or equivalent status, due to budget reductions, agency reorganizations, workforce down-sizings,
49 or other causes not related to the job performance or misconduct of the employee, but shall not include voluntary
50 resignations. As used in this chapter, a "terminated employee" shall mean an employee who is involuntarily separated from
51 employment with the Commonwealth.

52 **DRAFTING NOTE:** Technical corrections only.

~~§-2-1-146-24~~ 2.2-3201. Duties of Department of Human Resource Management and executive branch agencies to involuntarily separated employees.

A. Prior to terminating or placing on leave without pay-layoff or equivalent status any employee of an agency or institution in the executive branch of state government, the management of the agency or institution shall make every effort to place the employee in any vacant position within the agency for which the employee is qualified. If reemployment within the agency or institution is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary, the name of the employee shall be forwarded to the Department of Human Resource Management (the "Department").

B. Any preferential employment rights vested in the employee under the Commonwealth's layoff policy shall not be denied, abridged, or modified in any way by the Department of ~~Human Resource Management~~. The Department shall coordinate the preferential hiring of the employee, at the same salary classification, in any agency or institution of the executive branch of state government. The Department shall also establish a program to assist employees in finding employment outside of state government.

C. If, as of the date the employee is terminated from employment or placed on leave without pay-layoff or equivalent status, reemployment within his agency or institution or any other agency or institution of the executive branch of state government is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary, then the employee shall be deemed to be involuntarily separated. If such employee is otherwise eligible, he shall be entitled, under the conditions specified, to receive the transitional severance benefit conferred by this chapter.

D. The Department of ~~Human Resource Management~~ shall report all involuntary separations in the executive branch of state government to the Department of Planning and Budget, which shall make an appropriate reduction, pursuant to ~~§-2-1-304~~ 2.2-1501, in the terminating agency's maximum employment level in preparing its executive budget for the next session of the General Assembly.

DRAFTING NOTE: Technical corrections only.

~~§-2-1-146-22~~ 2.2-3202. Eligibility for transitional severance benefit.

A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (~~§-2-1-440~~ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivision A, 2., A, 4., (except those persons specified in subsection C of this section), A, 7., A, 15. or A, 16. of ~~§-2-1-146~~ 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System, (vi) who is employed by the State Lottery Department, (vii) who is employed by the Medical College of Virginia Hospitals and the University of Virginia Medical Center, or (viii) who is employed at a state educational institution as administrative or professional faculty (including presidents and teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education, 1994-95, and (a) who, on or after January 1, 1995, is involuntarily separated, or is involuntarily separated on or after July 1, 1994, if at the time of involuntary separation had attained age fifty and had fifteen or more years of service, and (b) for whom reemployment with the Commonwealth is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

B. An otherwise eligible employee whose position is contingent upon project grants as defined in the Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit conferred by this chapter unless the funding source had agreed to assume all financial responsibility therefor in its written contract with the Commonwealth.

C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular vote shall not be eligible for the transitional severance benefit conferred by this chapter.

D. Eligibility shall commence on the date of involuntary separation.

DRAFTING NOTE: Technical corrections only.

~~§-2-1-146-23~~ 2.2-3203. Transitional severance benefit conferred.

A. On his date of involuntary separation, an eligible employee with (i) two years' service or less to the Commonwealth shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary; (ii) three years through and including nine years of consecutive service to the Commonwealth shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary plus one additional week of salary for every year of service over two years; (iii) ten years through and including fourteen years of consecutive service to the Commonwealth shall be entitled to receive a transitional severance benefit equivalent to twelve weeks of salary plus two additional weeks of salary for every year of service over nine years; or (iv) fifteen years or more of consecutive service to the Commonwealth shall be entitled to receive a transitional severance benefit equivalent to two weeks of salary for every year of service, not to exceed thirty-six weeks of salary.

1 B. Transitional severance benefits shall be computed by the terminating agency's payroll department. Partial ye
2 of service shall be rounded up to the next highest year of service.

3 C. Transitional severance benefits shall be paid in the same manner as normal salary. In accordance with § 60.2-
4 229, transitional severance benefits shall be allocated to the date of involuntary separation. The right of any employee who
5 receives a transitional severance benefit to also receive unemployment compensation pursuant to § 60.2-100 et seq. shall not
6 be denied, abridged, or modified in any way due to receipt of the transitional severance benefit; however, any employee who
7 is entitled to unemployment compensation shall have his transitional severance benefit reduced by the amount of such
8 unemployment compensation. Any offset to a terminated employee's transitional severance benefit due to reductions for
9 unemployment compensation shall be paid in one lump sum at the time the last transitional severance benefit payment is
10 made.

11 D. For twelve months after the employee's date of involuntary separation, the employee shall continue to be covered
12 under the (i) health insurance plan created in § ~~2-1-20-42.2-2818~~ for the Commonwealth's employees, if he participated in
13 such plan prior to his date of involuntary separation, and (ii) group life insurance plan administered by the Virginia Retirement
14 System pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1. During such twelve months, the terminating agency shall
15 continue to pay its share of the terminated employee's premiums. Upon expiration of such twelve month period, the
16 terminated employee shall be eligible to purchase continuing health insurance coverage under COBRA.

17 E. Transitional severance benefit payments shall cease if a terminated employee is reemployed or hired in an
18 individual capacity as an independent contractor or consultant by any agency or institution of the Commonwealth during the
19 time he is receiving such payments.

20 F. All transitional severance benefits payable pursuant to this section shall be subject to applicable federal laws and
21 regulations.

22 **DRAFTING NOTE:** Technical corrections only.

23 § ~~2-1-116.24~~ 2.2-3204. Retirement program.

24 A. In lieu of the transitional severance benefit provided in § ~~2-1-116.23~~ 2.2-3203, any otherwise eligible employee
25 who, on the date of involuntary separation, is also (i) a vested member of the Virginia Retirement System ~~or~~ the State Police
26 Officers' Retirement System, or the Virginia Law Officers' Retirement System and (ii) at least fifty years of age, may elect to
27 have the Commonwealth purchase on his behalf years to be credited to either his age or creditable service or a combination
28 of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement
29 System ~~or~~ the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System who is eligibl
30 unreduced retirement shall be added to his creditable service and not his age. The cost of each year of age or credita
31 service purchased by the Commonwealth shall be equal to fifteen percent of the employee's present annual compensation.
32 The number of years of age or creditable service to be purchased by the Commonwealth shall be equal to the quotient
33 obtained by dividing (i) the cash value of the benefits to which the employee would be entitled under subsections A and D of §
34 ~~2-1-116.232.2-3203~~ by (ii) the cost of each year of age or creditable service. Partial years shall be rounded up to the next
35 highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153, 51.1-205, and 51.1-216, and disability
36 retirement under the provisions of § 51.1-156 et seq. and § 51.1-209, shall not be available under this section.

37 B. In lieu of the (i) transitional severance benefit provided in § ~~2-1-116.232.2-3203~~ and (ii) the retirement program
38 provided in subsection A, any employee who is otherwise eligible may take immediate retirement pursuant to § 51.1-155.1.

39 C. The retirement allowance for any employee electing to retire under this section who, by adding years to his age, is
40 between ages fifty-five and sixty-five, shall be reduced on the actuarial basis provided in subdivision A, 2, of § 51.1-155.

41 **DRAFTING NOTE:** Technical corrections only.

42 § ~~2-1-116.25~~ 2.2-3205. Costs associated with this chapter; payment.

43 A. The terminating agency shall pay all costs associated with the provisions of this chapter within the twelve months
44 following the date of an employee's involuntary separation, or within such shorter period as may be required. The costs shall
45 be paid first from appropriations available to the terminating agency. If such sums are insufficient, then, if the agency's
46 governing authority certifies that the agency is unable to pay the costs when due from appropriations available to the
47 terminating agency without affecting the agency's ability to deliver essential services, aid to localities, or aid to individuals, the
48 State Treasurer shall make a treasury loan to the agency to be used to finance the unsatisfied balance of the agency's
49 obligations.

50 B. As used ~~herein~~ in this section, the "governing authority" shall mean (i) for an agency in the executive branch, the
51 Governor or his designee; (ii) for an agency in the judicial branch, the Supreme Court of Virginia; (iii) and for an agency in the
52 legislative branch or an independent agency, the appropriate collegial body.

53 C. Any treasury loan made pursuant to subsection A shall be repaid by the agency in the following order: (i) first,
54 from unexpended fund balances available to the agency; (ii) next, from the unexpended year-end balances, less mandated
55 uses as set out in the ~~Appropriations Act~~ appropriation act, of all other state agencies and institutions in the termina
56 agency's branch of government (i.e., judicial, legislative, or executive); and (iii) finally, from such appropriations as:

1 General Assembly may provide for such purpose. In budgeting for the payment of these costs, the general fund shall bear its
2 actual share of such costs.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 2-1-116.26~~ 2.2-3206. Review of program.

5 The Senate Committee on Finance ~~Committee~~ and the House Committee on Appropriations ~~Committee~~ shall
6 periodically review the transitional severance program established by this chapter, and ~~shall~~ report their findings to the
7 Governor and the members of the General Assembly every three years beginning on July 1, 1998, and every three years
8 ~~thereafter~~.

9 **DRAFTING NOTE:** Technical corrections only.

SUBTITLE II
ADMINISTRATION OF STATE GOVERNMENT
PART A
GENERAL PROVISIONS
CHAPTER 33
STATE HOLIDAYS AND OTHER SPECIAL DAYS

CHAPTER DRAFTING NOTE: After review of this chapter, the Virginia Code Commission has adopted a policy that "special days" not be set out in the Code of Virginia.

~~§ 2-1-24~~ 2.2-3300. Legal holidays.

It is the policy of the Commonwealth to fix and set aside certain days in the calendar year as legal holidays for the people of Virginia ~~to honor and commemorate such holidays as established~~. In each year, the following days are designated as legal holidays:

January 1 - New Year's Day.

The Friday preceding the third Monday in January - Lee-Jackson Day to honor Robert Edward Lee (1807 - 1870) and Thomas Jonathan (Stonewall) Jackson (1824 - 1863), defenders of causes.

The third Monday in January - Martin Luther King, Jr., Day to honor Martin Luther King, Jr., (1929 - 1968), defender of causes.

The third Monday in February - George Washington Day to honor George Washington (1732-1799), the first President of the United States ~~of America~~.

The last Monday in May - Memorial Day to honor all persons who made the supreme sacrifice in giving their lives in defense of Virginia and the United States ~~of America~~ in the following wars and engagements and otherwise: Indian Uprising (1622), French and Indian Wars (1754-1763), Revolutionary War (1775-1783), War of 1812 (1812-1815), Mexican War (1846-1848), War Between the States (1861-1865), Spanish-American War (1898), World War I (1917-1918), World War II (1941-1945), Korean War (1950-1953), Vietnam War (1965-1973), and Operation Desert Shield-Desert Storm (1990-1991). On this day all flags, national, state, and local, shall be flown at half staff or mast to honor and acknowledge respect for those who made the supreme sacrifice.

July 4 - Independence Day to honor the signing of the Declaration of Independence.

The first Monday in September - Labor Day to honor all people who work ~~for a livelihood~~ in Virginia.

The second Monday in October - Columbus Day and Yorktown Victory Day to honor Christopher Columbus (1451-1506), a discoverer of the Americas, and the final victory at Yorktown on October 19, 1781, in the Revolutionary War.

November 11 - Veterans Day to honor all persons who served in the Armed Forces of Virginia and the United States ~~of America~~ in the following wars and engagements and otherwise: Indian Uprising (1622), French and Indian Wars (1754-1763), Revolutionary War (1775-1783), War of 1812 (1812-1815), Mexican War (1846-1848), War Between the States (1861-1865), Spanish American War (1898), World War I (1917-1918), World War II (1941-1945), Korean War (1950-1953), Vietnam War (1965-1973), and Operation Desert Shield-Desert Storm (1990-1991).

The fourth Thursday in November and the Friday next following - Thanksgiving Day to honor and give thanks in each person's own manner for the blessings bestowed upon the people of Virginia and honoring the first Thanksgiving in 1619.

December 25 - Christmas Day.

Whenever any of such days falls on Saturday, the Friday next preceding such day, or whenever any of such days falls on Sunday, the Monday next following such day, and any day so appointed by the Governor of ~~this the~~ Commonwealth or the President of the United States, shall be a legal holiday as to the transaction of all business.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-22~~ 2.2-3301. Acts, business transactions, legal proceedings, etc., on holidays valid.

No contract made, instrument executed, or act done on any of the legal holidays named in ~~§ 2-1-24~~ 2.2-3300, or on any Saturday, ~~whether before or after twelve o'clock, noon,~~ shall be thereby rendered invalid, ~~and nothing~~. Nothing in such ~~section~~ § 2.2-3300 shall be construed to prevent or invalidate the entry, issuance, service or execution of any writ, summons, confession, judgment, order or decree, or other legal process whatever, or the session of the proceedings of any court or judge on any of ~~such the~~ legal holidays or Saturdays, ~~either before or after twelve o'clock, noon,~~ nor to prevent any bank, banker, banking corporation, firm or association from keeping their doors open and transacting any lawful business on any of ~~such the~~ legal holidays or Saturdays.

DRAFTING NOTE: Technical corrections only.

§ 2.1-23. ~~Saturday closing of banks.~~

4 It shall be lawful for any bank as defined in § 6.1-4, including national banking associations and federal reserve
3 banks, to permit any one or more of all of its offices to remain closed on any one or more or all Saturdays, as the bank, by
4 resolution of its board of directors, may from time to time determine. Any Saturday on which an office of a bank shall remain
5 closed, as herein permitted, shall as to such office, constitute a legal holiday, and any act authorized, required or permitted to
6 be performed at, by or with respect to any such office on a Saturday on which the office is so closed, may be performed on
7 the next succeeding business day and no liability or loss of rights of any kind shall result from such delay.

8 **DRAFTING NOTE:** Technical corrections only. This section has been relocated to Title 6.1 as § 6.1-5.4.

9 § ~~2.1-24.4~~ 2.2-3302. Observance of Yorktown Day.

10 The nineteenth day of October of each year shall be recognized and celebrated as Yorktown Day throughout the
11 Commonwealth. The observance of Yorktown Day shall not be considered a paid state holiday.

12 **DRAFTING NOTE:** Technical corrections only.

13 § ~~2.1-24.2~~ 2.2-3303. Observance of Motherhood and Apple Pie Day in recognition of the need to prevent infant
14 mortality.

15 A. ~~January 26~~ The twenty-sixth day of January of each year shall be recognized and celebrated as Motherhood and
16 Apple Pie Day throughout the Commonwealth. Upon this date, all citizens of the Commonwealth are urged to reflect upon the
17 need to continue efforts to reduce the state's infant mortality rate to preserve our heritage and to ensure the health and well-
18 being of future generations.

19 B. On the third Thursday of every session of the Virginia General Assembly, the General Assembly shall give proper
20 recognition to Motherhood and Apple Pie Day in the Commonwealth.

21 **DRAFTING NOTE:** Technical corrections only.

22 § ~~2.1-24~~ 2.2-3304. Display of flags on Mother's Day.

23 The Governor ~~is authorized to~~ may issue annually a proclamation calling upon state officials to display the flag of the
United States and of the Commonwealth on all public buildings, and the people of the Commonwealth to display such flags at
their homes and other suitable places on the second Sunday in May, known as "Mother's Day," as a public expression of love
and reverence for the mothers of ~~this the~~ the Commonwealth.

27 **DRAFTING NOTE:** Technical corrections only.

28 § ~~2.1-24.2~~ 2.2-3305. Commonwealth Day of Prayer.

29 The first Thursday in May of each year shall be designated the "Commonwealth Day of Prayer" and shall be a day
30 on which the people of ~~this the~~ the Commonwealth may turn to God in prayer and meditation and may celebrate the religious
31 freedom secured for them by the laws of ~~this the~~ the Commonwealth and nation.

32 **DRAFTING NOTE:** Technical corrections only.

33 § ~~2.1-25~~ 2.2-3306. Arbor Day.

34 The second Friday in April of each year shall be designated and known as "Arbor Day."

35 **DRAFTING NOTE:** Technical corrections only.

36 § ~~2.1-26~~ 2.2-3307. Dogwood Day.

37 The third Saturday in April of each year shall be known and designated as "Dogwood Day."

38 **DRAFTING NOTE:** Technical corrections only.

39 § ~~2.1-27~~ 2.2-3308. First Lady's Day in Virginia.

40 Martha Washington's birthday, ~~June 2, 1960, and the same day the second day of June~~ of each ~~succeeding~~ year, is
41 shall be designated as First Lady's Day in Virginia in special tribute to Martha Washington as America's first First Lady and to
42 each of her successors as First Ladies of this Nation; ~~and upon~~ Upon this date, in perpetuity, all citizens, groups and
43 appropriate agencies in and of the Commonwealth of Virginia and of the ~~Nation~~ nation are urged to reflect upon and give
44 appropriate recognition to the magnificent contribution of this Nation's First Ladies to the heritage of the United States of
45 America.

46 **DRAFTING NOTE:** Technical corrections only.

§ ~~2.1-27.2~~ 2.2-3309. Pearl Harbor Remembrance Day.

1 ~~The seventh day of December 7, 1983, and the same day of each succeeding year, is shall be~~ designated as P
2 Harbor Remembrance Day in the Commonwealth in special tribute to those members of our armed forces who lost their
3 and also to those who survived, the attack on Pearl Harbor, Territory of Hawaii, December 7, 1941. Upon this date,
4 perpetuity, all citizens of the Commonwealth and the nation are urged to pay homage to the members of our armed forces for
5 the manner in which they bore the attack.

6 **DRAFTING NOTE:** Technical corrections only.

7 ~~§-2.1-27.3~~ 2.2-3310. Vietnam War Memorial Dedication and Veterans' Recognition Day.

8 The second Saturday of November ~~is of each year shall be~~ designated as Vietnam War Memorial Dedication Day
9 and Veterans' Recognition Day in the Commonwealth, to honor in perpetuity the men and women who have served their
10 country as members of the armed forces during the Vietnam Conflict.

11 **DRAFTING NOTE:** Technical corrections only.

12 ~~§-2.1-27.6~~ 2.2-3311. Day of recognition for early childhood and day-care providers and professionals.

13 The twenty-second day of October ~~of each year shall be~~ designated as a day of recognition for early childhood and
14 day-care providers and professionals to acknowledge the contributions of and pay tribute to early childhood and day-care
15 providers and professionals who serve the children of the Commonwealth.

16 **DRAFTING NOTE:** Technical corrections only.

17 ~~§-2.1-27.7~~ 2.2-3312. Day of recognition for bone marrow donor programs.

18 The eighth day of April ~~of each year shall be~~ designated as a day of recognition for bone marrow donor programs to
19 acknowledge the critical value of these initiatives in facilitating bone marrow transplant therapy and to increase awareness
20 among the citizens of the Commonwealth regarding opportunities to participate in these programs as donors and volunteers.

21 **DRAFTING NOTE:** Technical corrections only.

22 ~~§-2.1-27.8~~ 2.2-3313. Virginia Drug Free Day.

23 The Saturday of the last week in October of each year shall be designated and known as "Virginia Drug Free Day" to
24 recognize and support education about the dangers of drug abuse, the penalties for drug crimes, the availability of substance
25 abuse programs, and the need to eradicate drug abuse in Virginia's communities.

26 **DRAFTING NOTE:** Technical corrections only.

27 ~~§-2.1-27.10~~ 2.2-3314. Bill of Rights Day.

28 The fifteenth day of December 45 of each year shall be designated and known as the "Bill of Rights Day" in
29 recognition of the ratification of the first ten amendments to the United States Constitution.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§-2.1-24.1~~ 2.2-3315. Citizenship Day and Constitution Week.

32 The Governor shall annually issue a proclamation setting ~~apart~~ the seventeenth day of September as Citizenship
33 Day and September seventeen through twenty-three as Constitution Week and recommending that they be observed by the
34 Commonwealth with appropriate exercises in the schools and otherwise so that the eventful day on which the Constitution of
35 the United States was formally adopted may forever remain enshrined in the hearts and minds of all citizens and so that they
36 may be reminded on that date annually of the blessings of liberty ~~which that~~ they enjoy by the adoption of the United States
37 Constitution, the Bill of Rights and all other amendments thereto.

38 **DRAFTING NOTE:** Technical corrections only.

39 ~~§-2.1-27.14~~ 2.2-3316. Landscape Architecture Week in Virginia.

40 The second full week of April ~~is of each year shall be~~ designated as Landscape Architecture Week in Virginia in
41 recognition of the value and importance of the profession of landscape architecture, which encourages environmental
42 stewardship, promotes energy conservation, enhances the preservation of the Commonwealth's historical heritage, and
43 ensures that the place known as Virginia is preserved through wise design, management, and maintenance of its landscape.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§-2.1-27.4~~ 2.2-3317. Virginia Championship Applebutter Making Contest.

46 The Virginia Championship Applebutter Making Contest, held in Winchester in conjunction with the Rotary Club's
47 Apple Harvest Festival, shall be the third week in September of each year.

48 **DRAFTING NOTE:** Technical corrections only.

1 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
2 A is § 2.1-571 and subsection B is § 2.1-572.

3 ~~§ 2.1-572. Applications for licenses, services, assistance, etc.~~

4 ~~Whenever a deaf person applies for or is receiving any license, service, assistance or other right or benefit provided~~
5 ~~by an agency, the agency shall either request the Virginia Department for the Deaf and Hard of Hearing to appoint a qualified~~
6 ~~interpreter for the deaf or appoint such an interpreter from the list of qualified interpreters maintained by the Department to~~
7 ~~assist the deaf person in communicating with agency personnel.~~

8 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-3401 supra.

9 ~~§ 2.1-573 2.2-3402.~~ How interpreters paid.

10 An interpreter for the deaf appointed pursuant to ~~§ 2.1-571 or § 2.1-572~~ § 2.2-3401 shall be paid by the agency out of
11 such state and federal funds as may be available for the purpose or, if the agency has insufficient funds to pay an interpreter,
12 the Virginia Department for the Deaf and Hard-of-Hearing may appoint and pay an interpreter from ~~such the~~ funds as it may
13 have available for the purpose.

14 **DRAFTING NOTE:** Technical corrections only.

15 CHAPTER 35.

16 INFORMATION TECHNOLOGY ACCESS ACT.

17 ~~§ 2.1-807 2.2-3500.~~ Findings; policy.

18 A. The General Assembly finds that (i) the advent of the information age throughout the United States and around
19 the world has resulted in lasting changes in information technology; (ii) use of interactive visual display terminals by state and
20 state-assisted organizations is becoming a widespread means of access for employees and the public to obtain information
21 available electronically, but nonvisual access, whether by speech, Braille, or other appropriate means has been overlooked in
22 purchasing and deploying the latest information technology; (iii) presentation of electronic data solely in a visual format is a
23 barrier to access by individuals who are blind or visually impaired, preventing them from participating on equal terms in crucial
24 areas of life, such as education and employment; (iv) alternatives, including both software and hardware adaptations, have
25 been created so that interactive control of computers and use of the information presented is possible by both visual and
26 nonvisual means; and (v) the goals of the state in obtaining and deploying the most advanced forms of information technology
27 properly include universal access so that the segments of society with particular needs (including individuals unable to use
28 visual displays) will not be left out of the information age.

29 B. It is the policy of the Commonwealth that all covered entities shall conduct themselves in accordance with the
30 following principles: (i) individuals who are blind or visually impaired have the right to full participation in the life of the
31 Commonwealth, including the use of advanced technology ~~which that~~ is provided by such covered entities for use by
32 employees, program participants, and members of the general public, and (ii) technology purchased in whole or in part with
33 funds provided by the Commonwealth to be used for the creation, storage, retrieval, or dissemination of information and
34 intended for use by employees, program participants, and members of the general public shall be adaptable for access by
35 individuals who are blind or visually impaired. The implementation of nonvisual access technology under this ~~Act~~ chapter shall
36 be determined on a case-by-case basis as the need arises.

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 2.1-808 2.2-3501.~~ Definitions.

39 As used in this chapter, unless the context ~~clearly~~ requires a different meaning:

40 "Access" means the ability to receive, use, and manipulate data and operate controls included in information
41 technology.

42 "Blind" or "visually impaired" individual means an individual who has: (i) a visual acuity of 20/200 or less in the better
43 eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no
44 greater than 20 degrees; (ii) a medically indicated expectation of visual deterioration; or (iii) a medically diagnosed limitation
45 in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of
46 comparable ability.

47 "Covered entity" means all state agencies, public ~~colleges and universities~~ institutions of higher education, and
48 political subdivisions of the Commonwealth.

49 "Information technology" means all electronic information processing hardware and software, including
50 telecommunications.

51 "Nonvisual" means synthesized speech, Braille, and other output methods not requiring sight.

"Telecommunications" means the transmission of information, images, pictures, voice or data by radio, video, or other electronic or impulse means, but shall not include public broadcasting services as defined in ~~§ 2-1-563-27:2~~ 2.2-2427.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-800~~ 2.2-3502. Assurance of nonvisual access.

In general, the head of each covered entity shall ensure that information technology equipment and software used by blind or visually impaired employees, program participants, or members of the general public (i) provide access (including interactive use of the equipment and services) ~~which that~~ is equivalent to that provided to individuals who are not blind or visually impaired; (ii) are designed to present information (including prompts used for interactive communications) in formats adaptable to both visual and nonvisual use; and (iii) have been purchased under a contract ~~which that~~ includes the technology access clause required pursuant to ~~§ 2-1-840~~ 2.2-3503.

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-840~~ 2.2-3503. Procurement requirements.

A. The technology access clause specified in clause (iii) of ~~§ 2-1-800 2.2-3502~~ shall be developed by the Secretary of Technology ~~created pursuant to Executive Order Nine (1998), as amended by Executive Order Thirty-three (1998)~~, and shall require compliance with the nonvisual access standards established in subsection B of this section. The clause shall be included in all future contracts for the procurement of information technology by, or for the use of, entities covered by this Act ~~chapter~~ on or after the effective date of this ~~Act~~ chapter.

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

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

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-844~~ 2.2-3504. Implementation.

A. The head of any covered entity may, with respect to nonvisual access software or peripheral devices, approve the exclusion of ~~such the technology access~~ clause only to the extent that the cost of ~~such the~~ software or devices for the covered entity would increase the total cost of the procurement by more than five percent. All exclusions of the technology access clause from any contract shall be reported annually to the Secretary of Technology ~~created pursuant to Executive Order Nine (1998), as amended by Executive Order Thirty-three (1998)~~.

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

C. Notwithstanding the provisions of subsection B, the applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

~~D. Compliance with this Act for information technology purchased prior to September 1, 2000, shall be achieved at the time of procurement of an upgrade or replacement of the existing equipment or software.~~

DRAFTING NOTE: Technical corrections only. Subsection D has been deleted as obsolete.

CHAPTER 36.

STATE GOVERNMENT VOLUNTEERS ACT.

~~§ 2-1-554~~ 2.2-3600. ~~Declaration~~ Short title; declaration of legislative intent; short title.

A. This chapter may be cited as the Virginia State Government Volunteers Act.

B. Since the spirit of volunteerism has long animated generations of Americans to give of their time and abilities to help others, the Commonwealth would be wise to make use of volunteers in state service wherever practically possible. Effective use of volunteers in state service, however, requires that state agencies be provided guidelines for the development of volunteer programs and the utilization of volunteers. The General Assembly intends by this chapter to assure that people of

1 Virginia may derive optimal benefit from volunteers, and that the time and talents of volunteers in state service may be put
2 their best use.

3 ~~This chapter may be cited as the Virginia State Government Volunteers Act.~~

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§-2.1-555~~ 2.2-3601. Definitions.

6 As used in this chapter, the following terms shall have the following meanings unless another may clearly be inferred
7 from the content the context requires a different meaning:

8 1. "Volunteer" shall mean means any person who, of his own free will, provides goods or services, without any
9 financial gain, to any agency, instrumentality or political subdivision of the Commonwealth;

10 2. "Regular-service volunteer" shall mean means any person engaged in specific voluntary service activities on an
11 ongoing or continuous basis;

12 3. "Occasional-service volunteer" shall mean means any person who provides a one-time or occasional voluntary
13 service;

14 4. "Material donor" shall mean means any person who, without financial gain, provides funds, materials,
15 employment, or opportunities for clients of agencies, instrumentalities, or political subdivisions of the Commonwealth;

16 5. "Department" shall mean and include includes all departments and divisions enumerated in ~~§-2.1-1.4~~ §-2.1-1.4 established
17 in the executive branch of state government and local agencies under the jurisdiction or supervision thereof, and for the
18 purposes of ~~§§-2.1-556~~ 2.2-3602, ~~2.1-557.1~~ 2.2-3604 and ~~2.1-558~~ 2.2-3605, shall include political subdivisions of the
19 Commonwealth.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§-2.1-556~~ 2.2-3602. Scope of chapter; status of volunteers; reimbursements.

22 A. Every department, through its executive head, is hereby authorized to may develop volunteer programs and
23 accept the services of volunteers, including regular-service volunteers, occasional-service volunteers, or material donors, to
24 assist in programs carried out or administered by that department.

25 B. Volunteers recruited, trained, or accepted by any department shall, to the extent of their voluntary service, be
26 exempt from all provisions of law relating to state employment, hours of work, rate of compensation, leave time,
27 employee benefits except those enumerated in or consistent with ~~§-2.1-558~~ 2.2-3605. Volunteers shall, however, at all times
28 comply with applicable work rules.

29 C. Every department utilizing the services of volunteers is hereby authorized to may provide volunteers with such
30 incidental reimbursements as are consistent with the provisions of ~~§-2.1-558~~ 2.2-3605, including transportation costs, lodging,
31 and subsistence, as the department deems appropriate to assist volunteers in performing their duties.

32 **DRAFTING NOTE:** Technical corrections only.

33 ~~§-2.1-557~~ 2.2-3603. Responsibilities of departments.

34 Each department utilizing the services of volunteers shall:

35 1. Take such actions as are necessary and appropriate to develop meaningful opportunities for volunteers involved
36 in its programs and to improve public services;

37 2. Develop written rules governing the recruitment, screening, training, responsibility, utilization and supervision of
38 volunteers;

39 3. Take such actions as are necessary to ensure that volunteers and paid staff understand their respective duties
40 and responsibilities, their relationship to each other, and their respective roles in fulfilling the objectives of their department;

41 4. Take such actions as are necessary and appropriate to ensure a receptive climate for citizen volunteers;

42 5. Provide for the recognition of volunteers who have offered exceptional service to the Commonwealth; and

43 6. Recognize prior volunteer service as partial fulfillment of state employment requirements for training and
44 experience established by the Department of Human Resource Management.

45 **DRAFTING NOTE:** Technical corrections only.

46 ~~§-2.1-557.4~~ 2.2-3604. Solicitation of aid from community.

47 Each department shall be authorized may, through such the officer or officers, agent or agents, or employee or
48 employees primarily responsible for the utilization of volunteers in that department, to solicit volunteers and voluntary
49 assistance for that department from the community.

50 **DRAFTING NOTE:** Technical corrections only.

1 | ~~Any ordinance adopted by a local governing body which conflicts with the provisions of this chapter shall be void.~~

2 | **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-3700 supra.

3 | ~~§-2.1-344~~ 2.2-3701. Definitions.

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

5 | "Closed meeting" means a meeting from which the public is excluded.

6 | "Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or
7 | impracticable and which circumstance requires immediate action.

8 | "Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic
9 | or video equipment pursuant to ~~§-2.1-343~~ 2.2-3708, as a body or entity, or as an informal assemblage of (i) as many as
10 | three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes
11 | being taken, whether or not votes are cast, of any public body. The gathering of employees of a public body shall not be
12 | deemed a "meeting" subject to the provisions of this chapter.

13 | "Open meeting" or "public meeting" means a meeting at which the public may be present.

14 | "Public body" means any legislative body; any authority, board, bureau, commission, district or agency of the
15 | Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties; municipal councils,
16 | governing bodies of counties, school boards and planning commissions; boards of visitors of public institutions of higher
17 | education; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public
18 | funds. It shall include any committee, ~~or~~ subcommittee, or other entity however designated, of the public body created to
19 | perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee ~~or~~,
20 | subcommittee or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement
21 | System are "public bodies" for purposes of this chapter.

22 | "Public records" means all writings and recordings ~~which~~ that consist of letters, words or numbers, or their
23 | equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-
24 | optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical
25 | form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the
26 | transaction of public business.

27 | "Scholastic records" means those records containing information directly related to a student and maintained by a
28 | public body ~~which~~ that is an educational agency or institution or by a person acting for such agency or institution.

29 | **DRAFTING NOTE:** Technical corrections only.

30 | ~~§-2.1-344~~ 2.2-3702. Notice of chapter.

31 | A. Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall be
32 | furnished by the public body's administrator or legal counsel with a copy of this chapter within two weeks following election,
33 | reelection, appointment or reappointment.

34 | B. Public officials shall read and familiarize themselves with the provisions of this chapter.

35 | **DRAFTING NOTE:** Technical corrections only.

36 | ~~§-2.1-344~~ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election
37 | records.

38 | A. The provisions of this chapter shall not apply to:

39 | 1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board providing the number of
40 | inmates considered by such Board for discretionary parole, the number of inmates granted or denied parole, and the number
41 | of parolees returned to the custody of the Department of Corrections solely as a result of a determination by such Board of a
42 | violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by ~~§-2.1-342~~ 2.2-
43 | 3704 and (ii) all records concerning the finances of the Virginia Parole Board shall be public records and subject to the
44 | provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate,
45 | and the locality in which the conviction was obtained, upon the request of the party seeking the information;

46 | 2. Petit juries and grand juries;

47 | 3. Family assessment and planning teams established pursuant to ~~§-2.1-753~~ 2.2-5207; and

48 | 4. The Virginia State Crime Commission.

49 | B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this
50 | chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

51 | **DRAFTING NOTE:** Technical corrections only.

2 § ~~2-1-342~~ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to
3 request; charges.

4 A. Except as otherwise specifically provided by law, all public records shall be open to inspection and copying by
5 any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records
6 shall not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the
7 Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth. The
8 custodian of such records shall take all necessary precautions for their preservation and safekeeping.

9 B. A request for public records shall identify the requested records with reasonable specificity. The request need not
10 make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a
11 public body. Any public body ~~which-that~~ is subject to this chapter and ~~which-that~~ is the custodian of the requested records
12 shall promptly, but in all cases within five working days of receiving a request, make one of the following responses:

13 1. The requested records will be provided to the requester.

14 2. The requested records will be entirely withheld because their release is prohibited by law or the custodian has
15 exercised his discretion to withhold the records in accordance with this chapter. Such response shall (i) be in writing, (ii)
16 identify with reasonable particularity the volume and subject matter of withheld records, and (iii) cite, as to each category of
17 withheld records, the specific Code section ~~which-that~~ authorizes the withholding of the records.

18 3. The requested records will be provided in part and withheld in part because the release of part of the records is
19 prohibited by law or the custodian has exercised his discretion to withhold a portion of the records in accordance with this
20 chapter. Such response shall (i) be in writing, (ii) identify with reasonable particularity the subject matter of withheld portions,
21 and (iii) cite, as to each category of withheld records, the specific Code section ~~which-that~~ authorizes the withholding of the
22 records. When a portion of a requested record is withheld, the public body may delete or excise only that portion of the record
23 to which an exemption applies and shall release the remainder of the record.

24 4. It is not practically possible to provide the requested records or to determine whether they are available within the
25 five-work-day period. Such response shall be in writing and specify the conditions ~~which-that~~ make a response impossible. If
26 the response is made within five working days, the public body shall have an additional seven work days in which to provide
27 one of the three preceding responses.

28 C. Any public body may petition the appropriate court for additional time to respond to a request for records when
29 the request is for an extraordinary volume of records and a response by the public body within the time required by this
30 chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition,
31 however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production
32 of the records requested.

33 D. Subject to the provisions of subsections G and H, no public body shall be required to create a new record if the
34 record does not already exist. However, a public body may abstract or summarize information under such terms and
35 conditions as agreed between the requester and the public body.

36 E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation
37 of this chapter.

38 F. A public body may make reasonable charges for its actual cost incurred in accessing, duplicating, supplying, or
39 searching for the requested records. No public body shall impose any extraneous, intermediary or surplus fees or expenses
40 to recoup the general costs associated with creating or maintaining records or transacting the general business of the public
41 body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also
42 make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the
43 request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed
44 the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre
45 basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which
46 encompass a contiguous area greater than fifty acres. All charges for the supplying of requested records shall be estimated in
47 advance at the request of the citizen.

48 In any case where a public body determines in advance that charges for producing the requested records are likely
49 to exceed \$200, the public body may, before continuing to process the request, require the requester to agree to payment of
50 a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of
51 supplying the requested records. The period within which the public body shall respond under this section shall be tolled for
52 the amount of time that elapses between notice of the advance determination and the response of the requester.

53 G. Public records maintained by a public body in an electronic data processing system, computer database, or any
54 other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost
55 in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt
56 records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide
57 access to the nonexempt records as provided by this chapter.

58 Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium
identified by the requester, including, where the public body has the capability, the option of posting the records on a website

1 or delivering the records through an electronic mail address provided by the requester, if that medium is used by the
2 body in the regular course of business. No public body shall be required to produce records from an electronic databa
3 format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in
4 any format under such terms and conditions as agreed between the requester and public body, including the payment of
5 reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available
6 format to another shall not be deemed the creation, preparation or compilation of a new public record.

7 H. Every public body of state government shall compile, and annually update, an index of computer databases
8 ~~which that~~ contains at a minimum those databases created by them on or after July 1, 1997. "Computer database" means a
9 structured collection of data or records residing in a computer. Such index shall be a public record and shall include, at a
10 minimum, the following information with respect to each database listed therein: a list of data fields, a description of the format
11 or record layout, the date last updated, a list of any data fields to which public access is restricted, a description of each
12 format in which the database can be copied or reproduced using the public body's computer facilities, and a schedule of fees
13 for the production of copies in each available form. The form, context, language, and guidelines for the indices and the
14 databases to be indexed shall be developed by the Director of the Department of Information Technology in consultation with
15 the Librarian of Virginia and the State Archivist. The public body shall not be required to disclose its software security,
16 including passwords.

17 ~~Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium~~
18 ~~identified by the requester, including, where the public body has the capability, the option of posting the records on a website~~
19 ~~or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public~~
20 ~~body in the regular course of business. No public body shall be required to produce records from an electronic database in a~~
21 ~~format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in~~
22 ~~any format under such terms and conditions as agreed between the requester and public body, including the payment of~~
23 ~~reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available~~
24 ~~format to another shall not be deemed the creation, preparation or compilation of a new public record.~~

25 **DRAFTING NOTE:** Technical corrections only.

26 § ~~2-1-342.04~~ 2.2-3705. Exclusions to application of chapter.

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

29 1. Confidential records of all investigations of applications for licenses and permits, and all licensees and per
30 made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia F. . . g
31 Commission, or the Charitable Gaming Commission.

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

34 3. Scholastic records containing information concerning identifiable individuals, except that such access shall not be
35 denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have
36 access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel
37 and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and ~~which that~~ are not
38 accessible or revealed to any other person except a substitute.

39 The parent or legal guardian of a student may prohibit, by written request, the release of any individual information
40 regarding that student until the student reaches the age of eighteen years. For scholastic records of students under the age of
41 eighteen years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent,
42 unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such
43 access. For scholastic records of students who are emancipated or attending a state-supported institution of higher
44 education, the right of access may be asserted by the student.

45 Any person who is the subject of any scholastic record and who is eighteen years of age or older may waive, in
46 writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records
47 for inspection and copying.

48 4. Personnel records containing information concerning identifiable individuals, except that access shall not be
49 denied to the person who is the subject thereof. Any person who is the subject of any personnel record and who is eighteen
50 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the
51 public body shall open such records for inspection and copying.

52 5. Medical and mental records, except that such records may be personally reviewed by the subject person or a
53 physician of the subject person's choice. However, the subject person's mental records may not be personally reviewed by
54 such person when the subject person's treating physician has made a part of such person's records a written statement that
55 in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental
56 health or well-being.

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

8 For the purposes of this chapter, statistical summaries of incidents and statistical data concerning patient abuse as
9 may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse
10 Services shall be open to inspection and copying as provided in ~~§-2.1-342~~ 2.2-3704. No such summaries or data shall include
11 any patient-identifying information. Where the person who is the subject of medical and mental records is under the age of
12 eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such
13 parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In
14 instances where the person who is the subject thereof is an emancipated minor or a student in a public institution of higher
15 education, the right of access may be asserted by the subject person.

16 6. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General;
17 the members of the General Assembly or the Division of Legislative Services; the mayor or chief executive officer of any
18 political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher
19 education in Virginia. However, no record which is otherwise open to inspection under this chapter shall be deemed exempt
20 by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

21 As used in this subdivision:

22 "Working papers" means those records prepared by or for an above-named public official for his personal or
23 deliberative use.

24 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and
25 the Director of the Virginia Liaison Office; and those individuals to whom the Governor has delegated his authority pursuant to
26 ~~§-2.1-30.4~~ 2.2-104.

27 7. Written advice of legal counsel to state, regional or local public bodies or public officials and any other records
28 protected by the attorney-client privilege.

29 8. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active
30 administrative investigation concerning a matter ~~which-that~~ is properly the subject of a closed meeting under ~~§-2.1-344~~ 2.2-
31 3711.

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

35 10. Library records ~~which-that~~ can be used to identify both (i) any library patron who has borrowed material from a
36 library and (ii) the material such patron borrowed.

37 11. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any
38 student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment,
39 retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

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

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

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

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

1 14. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to ~~§ 2-1-344 2.2-~~
2 ~~3711~~. However, no record ~~which-that~~ is otherwise open to inspection under this chapter shall be deemed exempt by virtue of
3 the fact that it has been reviewed or discussed in a closed meeting.

4 15. Reports, documentary evidence and other information as specified in §§ ~~2-1-373 2.2-706~~ and 63.1-55.4.

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

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

9 18. Vendor proprietary information software ~~which-that~~ may be in the official records of a public body. For the
10 purpose of this subdivision, "vendor proprietary software" means computer programs acquired from a vendor for purposes of
11 processing data for agencies or political subdivisions of the Commonwealth.

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

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

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

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

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

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

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

33 26. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active
34 investigation of individual employment discrimination complaints made to the Department of Human Resource Management.
35 However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form ~~which-that~~
36 does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the
37 investigation.

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

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

42 29. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee,
43 special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure
44 statements and supporting materials filed under § ~~2-1-639 40-30-110~~ or of formulating advisory opinions to members on
45 standards of conduct, or both.

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

49 31. Investigative notes and other correspondence and information furnished in confidence with respect to an
50 investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act
51 (§ ~~2-1-714 2.2-3900~~ et seq.) or under any local ordinance adopted in accordance with the authority specified in § ~~2-1-724 2.2-~~
52 ~~2638~~, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local
53 human rights or human relations commissions. However, nothing in this section shall prohibit the distribution of information
54 taken from inactive reports in a form ~~which-that~~ does not reveal the identity of the parties involved or other persons supplying
55 information.

56 32. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from
57 employee personnel records; personally identifiable information regarding residents, clients or other recipients of services;

and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1. However, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

33. Personal information, as defined in ~~§ 2-4-3792.2-3801~~, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or § 15.2-2305. However, access to one's own information shall not be denied.

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

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

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

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

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

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

40. Records concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article ~~2-2-5~~ (~~§ 2-1-191.5-2-2-1832~~ et seq.) of Chapter ~~4418~~ of this title, or by any county, city, or town.

41. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

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

43. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the (i) Auditor of Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline; or (iv) committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825. Records of completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall include, but not be limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

- 1 44. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the
2 expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capite
3 expenditures pursuant to former § 32.1-102.3:4.
- 4 45. Documentation or other information ~~which that~~ describes the design, function, operation or access control
5 features of any security system, whether manual or automated, which is used to control access to or use of any automated
6 data processing or telecommunications system.
- 7 46. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to
8 the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of
9 Information Act (§ 2.2-3700 et seq.) or the federal Interstate Commerce Act or other laws administered by the Surface
10 Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface
11 Transportation Board and the Federal Railroad Administration.
- 12 47. In the case of corporations organized by the Virginia Retirement System (i) proprietary information provided by,
13 and financial information concerning, coventurers, partners, lessors, lessees, or investors and (ii) records concerning the
14 condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate, the disclosure of
15 which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the
16 corporation or subsidiary.
- 17 48. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to
18 the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for
19 developing consolidated statistical information on energy supplies.
- 20 49. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior
21 Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
- 22 50. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections
23 provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and
24 Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial
25 assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such
26 information is exempt under the federal Freedom of Information Act (§ 2.2-3700 et seq.) or the federal Interstate Commerce
27 Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to
28 data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the
29 exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.
- 30 51. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and
31 Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.
- 32 52. Information required to be provided pursuant to § 54.1-2506.1.
- 33 53. Confidential information designated as provided in subsection D of ~~§ 44-52-2.2-4342~~ as trade secrets or
34 proprietary information by any person who has submitted to a public body an application for prequalification to bid on public
35 construction projects in accordance with subsection B of ~~§ 44-462.2-4317~~.
- 36 54. All information and records acquired during a review of any child death by the State Child Fatality Review team
37 established pursuant to § 32.1-283.1, during a review of any child death by a local or regional child fatality review team
38 established pursuant to § 32.1-283.2, and all information and records acquired during a review of any death by a family
39 violence fatality review team established pursuant to § 32.1-283.3.
- 40 55. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan
41 funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of
42 Title 51.5.
- 43 56. Confidential proprietary records ~~which that~~ are voluntarily provided by a private entity pursuant to a proposal filed
44 with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), pursuant to a promise of
45 confidentiality from the responsible public entity, used by the responsible public entity for purposes related to the
46 development of a qualifying transportation facility; and memoranda, working papers or other records related to proposals filed
47 under the Public-Private Transportation Act of 1995, where, if such records were made public, the financial interest of the
48 public or private entity involved with such proposal or the process of competition or bargaining would be adversely affected. In
49 order for confidential proprietary information to be excluded from the provisions of this chapter, the private entity shall (i)
50 invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii)
51 identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. For
52 the purposes of this subdivision, the terms "public entity" and "private entity" shall be defined as they are defined in the
53 Public-Private Transportation Act of 1995.
- 54 57. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the
55 disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public; or records of
56 emergency service agencies to the extent that such records contain specific tactical plans relating to antiterrorist activity.
- 57 58. All records of the University of Virginia or the University of Virginia Medical Center ~~which that~~ contain proprietary
58 business-related information pertaining to the operations of the University of Virginia Medical Center, including its busines

1 development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with
2 whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if
3 disclosure of such information would be harmful to the competitive position of the Medical Center.

4 59. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to §
5 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to §
6 32.1-276.4.

7 60. Records of the Virginia Commonwealth University Health System Authority pertaining to any of the following: an
8 individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or
9 in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared
10 for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information
11 of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial
12 statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account
13 status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in
14 connection with its strategic planning and goals; and the determination of marketing and operational strategies where
15 disclosure of such strategies would be harmful to the competitive position of the Authority; and data, records or information of
16 a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or
17 administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly
18 issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such
19 data, records or information have not been publicly released, published, copyrighted or patented.

20 61. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity
21 to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be
22 rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private
23 person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a
24 promise of confidentiality.

25 62. Confidential proprietary records ~~which that~~ are provided by a franchisee under § 15.2-2108 to its franchising
26 authority pursuant to a promise of confidentiality from the franchising authority ~~which that~~ relates to the franchisee's potential
27 provision of new services, adoption of new technologies or implementation of improvements, where such new services,
28 technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise
29 area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would
30 be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the
31 franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure
32 is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is
33 necessary.

34 63. Records of the Intervention Program Committee within the Department of Health Professions, to the extent such
35 records may identify any practitioner who may be, or who is actually, impaired to the extent disclosure is prohibited by § 54.1-
36 2517.

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

44 65. Information ~~which that~~ would disclose the security aspects of a system safety program plan adopted pursuant to
45 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and
46 information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation
47 of a rail accident or other incident threatening railway safety.

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

50 67. Personal information, as defined in ~~§ 2.1-379~~ 2.2-3801, provided to the Board of the Virginia College Savings
51 Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into
52 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing
53 in this subdivision shall be construed to prohibit disclosure or publication of information in a statistical or other form ~~which that~~
54 does not identify individuals or provide personal information. Individuals shall be provided access to their own personal
55 information.

56 68. Any record copied, recorded or received by the Commissioner of Health in the course of an examination,
57 investigation or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including
58 books, records, files, accounts, papers, documents, and any or all computer or other recordings.

1 69. Engineering and architectural drawings, operational, procedural, tactical planning or training manuals, or staff
2 meeting minutes or other records, the disclosure of which would reveal surveillance techniques, personnel deployments,
3 alarm systems or technologies, or operational and transportation plans or protocols, to the extent such disclosure would
4 jeopardize the security or employee safety of (i) the Virginia Museum of Fine Arts or any of its warehouses; (ii) any
5 government store or warehouse controlled by the Department of Alcoholic Beverage Control; (iii) any courthouse, jail,
6 detention or law-enforcement facility; or (iv) any correctional or juvenile facility or institution under the supervision of the
7 Department of Corrections or the Department of Juvenile Justice.

8 70. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant
9 to §§ 3.1-622 and 3.1-624.

10 71. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control
11 Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are
12 considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement
13 actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been
14 proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records related to
15 inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have
16 occurred or similar documents.

17 72. As it pertains to any person, records related to the operation of toll facilities that identify an individual, vehicle, or
18 travel itinerary including, but not limited to, vehicle identification data, vehicle enforcement system information; video or
19 photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank
20 account data; home addresses; phone numbers; or records of the date or time of toll facility use.

21 73. Records of the Department for Rights of Virginians with Disabilities consisting of documentary evidence received
22 or maintained by the Department or its agents in connection with specific complaints or investigations, and records of
23 communications between employees and agents of the Department and its clients or prospective clients concerning specific
24 complaints, investigations or cases. Upon the conclusion of an investigation of a complaint, this exclusion shall no longer
25 apply, but the Department may not at any time release the identity of any complainant or person with mental illness, mental
26 retardation, developmental disabilities or other disability, unless (i) such complainant or person or his legal representative
27 consents in writing to such identification or (ii) such identification is required by court order.

28 74. Information furnished in confidence to the Department of Employment Dispute Resolution with respect to an
29 investigation, consultation, or mediation under Chapter 10.01 (§ 2.1-116.01 et seq.) of this title, and memoranda,
30 correspondence and other records resulting from any such investigation, consultation or mediation. However, nothing in this
31 section shall prohibit the distribution of information taken from inactive reports in a form ~~which~~ that does not reveal the identity
32 of the parties involved or other persons supplying information.

33 75. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by
34 CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to §
35 56-484.15, relating to the provision of wireless E-911 service.

36 B. Neither any provision of this chapter nor any provision of Chapter ~~2638~~ (§ 2.1-377-2.2-3800) et seq.) of this title
37 shall be construed as denying public access to (i) contracts between a public official and a public body, other than contracts
38 settling public employee employment disputes held confidential as personnel records under subdivision 4. of subsection A; (ii)
39 records of the position, job classification, official salary or rate of pay of, and records of the allowances or reimbursements for
40 expenses paid to any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any
41 corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subsection,
42 however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual
43 rate of pay is \$10,000 or less.

44 C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to
45 any person incarcerated in a state, local or federal correctional facility, whether or not such facility is (i) located in the
46 Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.). However, this
47 subsection shall not be construed to prevent an incarcerated person from exercising his constitutionally protected rights,
48 including, but not limited to, his rights to call for evidence in his favor in a criminal prosecution.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§ 2.1-342.2~~ 2.2-3706. Disclosure of criminal records; limitations.

51 A. As used in this section:

52 "Criminal incident information" means a general description of the criminal activity reported, the date and general
53 location the alleged crime was committed, the identity of the investigating officer, and a general description of any injuries
54 suffered or property damaged or stolen.

55 "Law-enforcement official" includes the attorneys for the Commonwealth.

56 B. Law-enforcement officials shall make available upon request criminal incident information relating to felony
57 offenses. However, where the release of criminal incident information is likely to jeopardize an ongoing investigation or

3 prosecution, or the safety of an individual; cause a suspect to flee or evade detection; or result in the destruction of evidence,
4 such information may be withheld until the above-referenced damage is no longer likely to occur from release of the
5 information. Nothing in this subsection shall be construed to prohibit the release of those portions of such information that are
6 not likely to cause the above-referenced damage.

7 C. Information in the custody of law-enforcement officials relative to the identity of any individual, other than a
8 juvenile, who is arrested and charged, and the status of the charge or arrest shall be released.

9 D. The identity of any victim, witness or undercover officer, or investigative techniques or procedures need not but
10 may be disclosed unless disclosure is prohibited or restricted under § 19.2-11.2.

11 E. The identity of any individual providing information about a crime or criminal activity under a promise of
12 anonymity shall not be disclosed.

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

15 1. Complaints, memoranda, correspondence and evidence relating to a criminal investigation or prosecution, other
16 than criminal incident information as defined in subsection A;

17 2. Adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time
18 as the release of the photograph will no longer jeopardize the investigation;

19 3. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized
20 pursuant to § 53.1-16 or § 66-3.1, and (iii) campus police departments of public institutions of higher education established
21 pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23;

22 4. Portions of records of local government crime commissions that would identify individuals providing information
23 about crimes or criminal activities under a promise of anonymity;

24 5. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names,
25 addresses, and operating schedules of individual participants in the program that are provided to such agencies under a
26 promise of anonymity; and

6. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the
imprisonment.

G. Records kept by law-enforcement agencies as required by § 15.2-1722 shall be subject to the provisions of this
chapter except:

29 1. Those portions of noncriminal incident or other investigative reports or materials containing identifying information
30 of a personal, medical or financial nature provided to a law-enforcement agency where the release of such information would
31 jeopardize the safety or privacy of any person;

32 2. Those portions of any records containing information related to plans for or resources dedicated to undercover
33 operations; or

34 3. Records of background investigations of applicants for law-enforcement agency employment or other confidential
35 administrative investigations conducted pursuant to law.

36 H. In the event of conflict between this section as it relates to requests made under this section and other provisions
37 of law, this section shall control.

38 **DRAFTING NOTE:** Technical corrections only.

39 ~~§ 2.1-343~~ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.

40 A. All meetings of public bodies shall be open, except as provided in ~~§ 2.1-344~~ 2.2-3711.

41 B. No meeting shall be conducted through telephonic, video, electronic or other communication means where the
42 members are not physically assembled to discuss or transact public business, except as provided in ~~§§ 2.1-343-4~~ 2.2-3708,
43 ~~2.1-343.1-4~~ 2.2-3709 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

44 C. Every public body shall give notice of the date, time, and location of its meetings by placing the notice in a
45 prominent public location at which notices are regularly posted and in the office of the clerk of the public body, or in the case
46 of a public body ~~which that~~ has no clerk, in the office of the chief administrator. Publication of meeting notices by electronic
47 means shall be encouraged. The notice shall be posted at least three working days prior to the meeting. Notices for meetings
48 of state public bodies on which there is at least one member appointed by the Governor shall state whether or not public
49 comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be
50 received.

51 D. Notice, reasonable under the circumstance, of special or emergency meetings shall be given contemporaneously
52 with the notice provided members of the public body conducting the meeting.

E. Any person may annually file a written request for notification with a public body. The request shall include the
requester's name, address, zip code, daytime telephone number, electronic mail address ~~(if available)~~, and organization, if

1 any. The public body receiving such request shall provide notice of all meetings directly to each such person. Without
2 objection by the person, the public body may provide electronic notice of all meetings in response to such requests.

3 F. At least one copy of all agenda packets and, unless exempt, all materials furnished to members of a public body
4 for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of
5 the public body.

6 G. Nothing in this chapter shall be construed to prohibit the gathering or attendance of two or more members of a
7 public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or
8 transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of
9 discussing or transacting any business of the public body or (ii) at a public forum, candidate appearance, or debate, the
10 purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the
11 transaction of public business, even though the performance of the members individually or collectively in the conduct of
12 public business may be a topic of discussion or debate at such public meeting. The notice provisions of this chapter shall not
13 apply to informal meetings or gatherings of the members of the General Assembly.

14 H. Any person may photograph, film, record or otherwise reproduce any portion of a meeting required to be open.
15 The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for
16 broadcasting, photographing, filming or recording a meeting to prevent interference with the proceedings.

17 I. Minutes shall be recorded at all open meetings. However, minutes shall not be required to be taken at
18 deliberations of (i) standing and other committees of the General Assembly, (ii) legislative interim study commissions and
19 committees, including the Virginia Code Commission, (iii) study committees or commissions appointed by the Governor, or
20 (iv) study commissions or study committees, or any other committees or subcommittees appointed by the governing bodies or
21 school boards of counties, cities and towns, except where the membership of any such commission, committee or
22 subcommittee includes a majority of the governing body of the county, city or town or school board. Minutes, including draft
23 minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and
24 subject to the provisions of this chapter. Audio or audio/visual records of open meetings shall be public records ~~which that~~
25 shall be produced in accordance with ~~§ 2-1-342~~ 2.2-3704.

26 **DRAFTING NOTE:** Technical corrections only.

27 | ~~§ 2-1-343-4~~ 2.2-3708. Electronic communication meetings.

28 A. It shall be a violation of this chapter for any political subdivision or any governing body, authority, board, bureau
29 commission, district or agency of local government or any committee thereof to conduct a meeting wherein the publ
30 business is discussed or transacted through telephonic, video, electronic or other communication means where the members
31 are not physically assembled. Nothing in this section shall be construed to prohibit the use of interactive audio or video
32 means to expand public participation.

33 B. For purposes of this section, "public body" means any public body of the Commonwealth, but excludes any
34 political subdivision or any governing body, authority, board, bureau, commission, district or agency of local government.

35 State public bodies may conduct any meeting, except closed meetings held pursuant to ~~§ 2-1-344~~ 2.2-3711, wherein
36 the public business is discussed or transacted through telephonic or video means. Where a quorum of a public body of the
37 Commonwealth is physically assembled at one location for the purpose of conducting a meeting authorized under this
38 section, additional members of such public body may participate in the meeting through telephonic means provided such
39 participation is available to the public.

40 C. Notice of any meetings held pursuant to this section shall be provided at least thirty days in advance of the date
41 scheduled for the meeting. The notice shall include the date, time, place and purpose for the meeting and shall identify the
42 locations for the meeting. All locations for the meeting shall be made accessible to the public. All persons attending the
43 meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons
44 attending the primary or central location. Any interruption in the telephonic or video broadcast of the meeting shall result in
45 the suspension of action at the meeting until repairs are made and public access restored.

46 Thirty-day notice shall not be required for telephonic or video meetings continued to address an emergency as
47 provided in subsection F or to conclude the agenda of a telephonic or video meeting of the public body for which the proper
48 notice has been given, when the date, time, place and purpose of the continued meeting are set during the meeting prior to
49 adjournment.

50 The public body shall provide the Director of the Department of Information Technology with notice of all public
51 meetings held through telephonic or video means pursuant to this section.

52 | D. An agenda and materials ~~which that~~ will be distributed to members of the public body and ~~which that~~ have been
53 made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public
54 access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by
55 telephonic or video means shall be recorded as required by ~~§ 2-1-343~~ 2.2-3707. Votes taken during any meeting conducted
56 through telephonic or video means shall be recorded by name in roll-call fashion and included in the minutes. In addition, if th
57 public body shall make an audio recording of the meeting, if a telephonic medium is used, or an audio/visual recording, if th

1 meeting is held by video means. The recording shall be preserved by the public body for a period of three years following the
2 date of the meeting and shall be available to the public.

3 E. No more than twenty-five percent of all meetings held annually by a public body, including meetings of any ad
4 hoc or standing committees, may be held by telephonic or video means. Any public body ~~which~~ that meets by telephonic or
5 video means shall file with the Director of the Department of Information Technology by July 1 of each year a statement
6 identifying the total number of meetings held during the preceding fiscal year, the dates on which the meetings were held and
7 the number and purpose of those conducted through telephonic or video means.

8 F. Notwithstanding the limitations imposed by subsection E, a public body may meet by telephonic or video means
9 as often as needed if an emergency exists and the public body is unable to meet in regular session. Public bodies conducting
10 emergency meetings through telephonic or video means shall comply with the provisions of subsection D requiring minutes,
11 recordation and preservation of the audio or audio/visual recording of the meeting. The nature of the emergency shall be
12 stated in the minutes.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2-1-343.1:1~~ 2.2-3709. Meetings of Board of Visitors of the University of Virginia.

15 A. Members of the Board of Visitors of the University of Virginia may participate by video, telephone, or video and
16 telephone at their meetings or meetings of their committees, where (i) at least two-thirds of the membership of such board or
17 its committees is physically assembled at its regular or primary location, (ii) any such meeting is duly convened with advance
18 public notice in accordance with ~~§ 2-1-343~~ 2.2-3707, and (iii) a speaker phone is provided where at least two-thirds of such
19 membership is physically present. No more than twenty-five percent of all meetings held annually by such board or its
20 committee, including meetings of any ad hoc committees, may be held by telephonic or video means.

21 B. Where at least two-thirds of such board or its committees is physically assembled at one location for the purpose
22 of conducting a meeting authorized under this section, additional members of such board or its committees may participate in
23 the meeting through telephonic means provided the public is permitted to hear and observe such participation. Any
24 interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until
25 repairs are made and public access restored.

26 C. Except as otherwise provided in this section, all meetings shall be conducted in accordance with this chapter. Any
27 meeting conducted pursuant to this section shall not be considered an "electronic communication meeting" for purposes of §
28 ~~2-1-343.4~~ 2.2-3708, provided such board or its committees comply with the provisions of subsection D of ~~§ 2-1-343.4~~ 2.2-
29 3708, requiring minutes, recordation and preservation of the audio or audio/visual recording of the meeting. Votes taken by
30 those participating by telephone or video shall also be publicly recorded by name in roll-call fashion and shall be included in
31 the minutes, which shall be approved by such board or its committees in public session.

32 **DRAFTING NOTE:** Technical corrections only.

33 ~~§ 2-1-343.2~~ 2.2-3710. Transaction of public business other than by votes at meetings prohibited.

34 Unless otherwise specifically provided by law, no vote of any kind of the membership, or any part thereof, of any
35 public body shall be taken to authorize the transaction of any public business, other than a vote taken at a meeting conducted
36 in accordance with the provisions of this chapter. No public body shall vote by secret or written ballot, and unless expressly
37 provided by this chapter, no public body shall vote by telephone or other electronic communication means.

38 Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit separately contacting the
39 membership, or any part thereof, of any public body for the purpose of ascertaining a member's position with respect to the
40 transaction of public business.

41 **DRAFTING NOTE:** Technical corrections only.

42 ~~§ 2-1-344~~ 2.2-3711. Closed meetings authorized for certain limited purposes.

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

44 1. Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment,
45 promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of
46 any public body; and evaluation of performance of departments or schools of public institutions of higher education where
47 such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted
48 to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter ~~which~~ that
49 involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a
50 written request to be present to the presiding officer of the appropriate board.

51 2. Discussion or consideration of admission or disciplinary matters concerning any student of any Virginia public
52 institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a
53 minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation
54 of evidence at a closed meeting, if such student, parents or guardians so request in writing and such request is submitted to
55 the presiding officer of the appropriate board.

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

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

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

8 6. The investing of public funds where competition or bargaining is involved, where, if made public initially, the
9 financial interest of the governmental unit would be adversely affected.

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

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

28 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts and The Science Museum of Virginia,
29 discussion or consideration of matters relating to specific gifts, bequests, and grants.

30 10. Discussion or consideration of honorary degrees or special awards.

31 11. Discussion or consideration of tests, examinations or other records excluded from this chapter pursuant to
32 subdivision A. 11. of § 2-1-342.01-A-11 2.2-3705.

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

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

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

42 15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to ~~§ 2-1-342.01~~
43 A-5 subdivision A. 5. of § 2.2-3705, and those portions of disciplinary proceedings by any regulatory board within the
44 Department of Professional and Occupational Regulation or Department of Health Professions conducted pursuant to § ~~9-~~
45 6-14-11 2.2-4019 or § ~~9-6-14-12 2.2-4020~~ during which the board deliberates to reach a decision.

46 16. Discussion, consideration or review of State Lottery Department matters related to proprietary lottery game
47 information and studies or investigations exempted from disclosure under subdivisions A. 37. and A. 38. of subsection A of §
48 2-1-342.01 2.2-3705.

49 17. Those portions of meetings by local government crime commissions where the identity of, or information tending
50 to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or
51 disclosed.

52 18. Discussion, consideration, review and deliberations by local community corrections resources boards regarding
53 the placement in community diversion programs of individuals previously sentenced to state correctional facilities.

54 19. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or
55 information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders
56 assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at

the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

20. Discussion of plans to protect public safety as it relates to terrorist activity.

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

22. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

23. Those portions of meetings of the University of Virginia Board of Visitors and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center.

24. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

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

26. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in ~~§ 2-1-3792.2-3801~~, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is discussed.

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

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

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

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

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

DRAFTING NOTE: Technical corrections only.

~~§ 2-1-344.1 2.2-3712~~. Closed meetings procedures; certification of proceedings.

A. No closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion ~~which~~that (i) identifies the subject matter, (ii) states the

1 purpose of the meeting and (iii) makes specific reference to the applicable exemption from open meeting requirement
2 provided in ~~§ 2-1-343 2.2-3707~~ or subsection A of ~~§ 2-1-344 2.2-3711~~. The matters contained in such motion shall be set fo
3 in detail in the minutes of the open meeting. A general reference to the provisions of this chapter, the authorized exemption,
4 from open meeting requirements, or the subject matter of the closed meeting shall not be sufficient to satisfy the requirements
5 for holding a closed meeting.

6 B. The notice provisions of this chapter shall not apply to closed meetings of any public body held solely for the
7 purpose of interviewing candidates for the position of chief administrative officer. Prior to any such closed meeting for the
8 purpose of interviewing candidates, the public body shall announce in an open meeting that such closed meeting shall be
9 held at a disclosed or undisclosed location within fifteen days thereafter.

10 C. The public body holding a closed meeting shall restrict its discussion during the closed meeting only to those
11 matters specifically exempted from the provisions of this chapter and identified in the motion required by subsection A.

12 D. At the conclusion of any closed meeting, the public body holding such meeting shall immediately reconvene in an
13 open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the
14 best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under
15 this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was
16 convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who
17 believes that there was a departure from the requirements of ~~subdivisions-clauses~~ (i) and (ii), shall so state prior to the vote,
18 indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the
19 minutes of the public body.

20 E. Failure of the certification required by subsection D to receive the affirmative vote of a majority of the members of
21 the public body present during a meeting shall not affect the validity or confidentiality of such meeting with respect to matters
22 considered therein in compliance with the provisions of this chapter. The recorded vote and any statement made in
23 connection therewith, shall upon proper authentication, constitute evidence in any proceeding brought to enforce the
24 provisions of this chapter.

25 F. A public body may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if
26 their presence will reasonably aid the public body in its consideration of a topic ~~which that~~ is a subject of the meeting.

27 G. Except as specifically authorized by law, in no event may any public body take action on matters discussed in
28 any closed meeting, except at an open meeting for which notice was given as required by ~~§ 2-1-343 2.2-3707~~.

29 H. Minutes may be taken during closed meetings of a public body, but shall not be required. Such minutes shall r
30 be subject to mandatory public disclosure.

31 **DRAFTING NOTE:** Technical corrections only.

32 ~~§ 2-1-346 2.2-3713~~. Proceedings for enforcement of chapter.

33 A. Any person, including the attorney for the Commonwealth acting in his official or individual capacity, denied the
34 rights and privileges conferred by this chapter may proceed to enforce such rights and privileges by filing a petition for
35 mandamus or injunction, supported by an affidavit showing good cause, addressed to the general district court or the court of
36 record of the county or city from which the public body has been elected or appointed to serve and in which such rights and
37 privileges were so denied. Failure by any person to request and receive notice of the time and place of meetings as provided
38 in ~~§ 2-1-343 2.2-3707~~ shall not preclude any person from enforcing his or her rights and privileges conferred by this chapter.

39 B. Any petition alleging denial of rights and privileges conferred by this chapter by a board, bureau, commission,
40 authority, district or agency of the state government or by a standing or other committee of the General Assembly, shall be
41 addressed to the general district court or the circuit court of the residence of the aggrieved party or of the City of Richmond. In
42 any action brought before a general district court, a corporate petitioner may appear through its officer, director or managing
43 agent without the assistance of counsel, notwithstanding any provision of law or Rule of the Supreme Court of Virginia to the
44 contrary.

45 C. The petition for mandamus or injunction shall be heard within seven days of the date when the same is made.
46 However, any petition made outside of the regular terms of the circuit court of a county ~~which that~~ is included in a judicial
47 circuit with another county or counties, the hearing on the petition shall be given precedence on the docket of such court over
48 all cases ~~which that~~ are not otherwise given precedence by law.

49 D. The petition shall allege with reasonable specificity the circumstances of the denial of the rights and privileges
50 conferred by this chapter. A single instance of denial of the rights and privileges conferred by this chapter shall be sufficient to
51 invoke the remedies granted herein. If the court finds the denial to be in violation of the provisions of this chapter, the
52 petitioner shall be entitled to recover reasonable costs and ~~attorney's-attorneys'~~ fees from the public body if the petitioner
53 substantially prevails on the merits of the case, unless special circumstances would make an award unjust. In making this
54 determination, a court may consider, among other things, the reliance of a public body on an opinion of the Attorney General
55 or a decision of a court that substantially supports the public body's position.

1 E. In any action to enforce the provisions of this chapter, the public body shall bear the burden of proof to establish
2 an exemption by a preponderance of the evidence. Any failure by a public body to follow the procedures established by this
3 chapter shall be presumed to be a violation of this chapter.

4 **DRAFTING NOTE:** Technical corrections only.

5 § 2.1-346.4 2.2-3714. Violations and penalties.

6 In a proceeding commenced against members of public bodies under § 2.1-346 2.2-3713 for a violation of §§ 2.1-
7 342 2.2-3704, 2.1-342.04 2.2-3705, 2.1-342.2 2.2-3706, 2.1-343 2.2-3707, 2.1-343.1 2.2-3708, 2.1-343.2 2.2-3710, 2.1-344
8 2.2-3711 or § 2.1-344.4 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon
9 such member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not
10 less than \$100 nor more than \$1,000, which amount shall be paid into the State Literary Fund. For a second or subsequent
11 violation, such civil penalty shall be not less than \$500 nor more than \$2,500.

12 **DRAFTING NOTE:** Technical corrections only.

13 CHAPTER 38.

14 PRIVACY PROTECTION ACT OF 1976

15 GOVERNMENT DATA COLLECTION AND DISSEMINATION PRACTICES ACT.

16 § 2.1-377 2.2-3800. Short title; findings; principles of information practice.

17 A. This chapter may be cited as the "Privacy Protection Act of 1976." "Government Data Collection and
18 Dissemination Practices Act."

19 B. The General Assembly finds that:

20 1. An individual's privacy is directly affected by the extensive collection, maintenance, use and dissemination of
21 personal information;

22 2. The increasing use of computers and sophisticated information technology has greatly magnified the harm that
23 can occur from these practices;

24 3. An individual's opportunities to secure employment, insurance, credit, and his right to due process, and other legal
25 protections are endangered by the misuse of certain of these personal information systems; and

26 4. In order to preserve the rights guaranteed a citizen in a free society, legislation is necessary to establish
27 procedures to govern information systems containing records on individuals.

28 C. Recordkeeping agencies of the Commonwealth and political subdivisions shall adhere to the following principles
29 of information practice to ensure safeguards for personal privacy:

30 1. There shall be no personal information system whose existence is secret.

31 2. Information shall not be collected unless the need for it has been clearly established in advance.

32 3. Information shall be appropriate and relevant to the purpose for which it has been collected.

33 4. Information shall not be obtained by fraudulent or unfair means.

34 5. Information shall not be used unless it is accurate and current.

35 6. There shall be a prescribed procedure for an individual to learn the purpose for which information has been
36 recorded and particulars about its use and dissemination.

37 7. There shall be a clearly prescribed and uncomplicated procedure for an individual to correct, erase or amend
38 inaccurate, obsolete or irrelevant information.

39 8. Any agency holding personal information shall assure its reliability and take precautions to prevent its misuse.

40 9. There shall be a clearly prescribed procedure to prevent personal information collected for one purpose from
41 being used for another purpose.

42 10. The Commonwealth or any agency or political subdivision thereof shall not collect personal information except as
43 explicitly or implicitly authorized by law.

44 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
45 A is § 2.1-377 and subsections B and C are § 2.1-378. On the recommendation of recodification staff, the Code Commission
46 recommends changing the name of the Privacy Protection Act to the "Government Data Collection and Dissemination
47 Practices Act" as more descriptive because the Privacy Protection Act is in fact a data collection and dissemination statute
48 and does not protect privacy. This recommendation is supported by a 1982 Virginia Supreme Court case, *Hinderliter v.*
49 *Humphries*, 224 Va. 438, which held that the Privacy Protection Act "[d]oes not render personal information confidential.
50 Indeed, the act does not generally prohibit the dissemination of information. Instead, it requires certain procedural steps to be
51 taken in the collection, maintenance, use, and dissemination of such data."

1 ~~§ 2.1-378. Findings; principles of information practice.~~

2 A. ~~The General Assembly finds:~~

3 1. ~~That an individual's privacy is directly affected by the extensive collection, maintenance, use and dissemination of~~
4 ~~personal information;~~

5 2. ~~That the increasing use of computers and sophisticated information technology has greatly magnified the harm~~
6 ~~that can occur from these practices;~~

7 3. ~~That an individual's opportunities to secure employment, insurance, credit and his right to due process, and other~~
8 ~~legal protections are endangered by the misuse of certain of these personal information systems; and~~

9 4. ~~That in order to preserve the rights guaranteed a citizen in a free society, legislation is necessary to establish~~
10 ~~procedures to govern information systems containing records on individuals.~~

11 B. ~~Record-keeping agencies of the Commonwealth and political subdivisions shall adhere to the following principles~~
12 ~~of information practice to ensure safeguards for personal privacy:~~

13 1. ~~There shall be no personal information system whose existence is secret.~~

14 2. ~~Information shall not be collected unless the need for it has been clearly established in advance.~~

15 3. ~~Information shall be appropriate and relevant to the purpose for which it has been collected.~~

16 4. ~~Information shall not be obtained by fraudulent or unfair means.~~

17 5. ~~Information shall not be used unless it is accurate and current.~~

18 6. ~~There shall be a prescribed procedure for an individual to learn the purpose for which information has been~~
19 ~~recorded and particulars about its use and dissemination.~~

20 7. ~~There shall be a clearly prescribed and uncomplicated procedure for an individual to correct, erase or amend~~
21 ~~inaccurate, obsolete or irrelevant information.~~

22 8. ~~Any agency holding personal information shall assure its reliability and take precautions to prevent its misuse.~~

23 9. ~~There shall be a clearly prescribed procedure to prevent personal information collected for one purpose from~~
24 ~~being used for another purpose.~~

25 10. ~~The Commonwealth or any agency or political subdivision thereof shall not collect personal information except as~~
26 ~~explicitly or implicitly authorized by law.~~

27 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B and C in proposed § 2.2-3800 supra.

28 ~~§ 2.1-379~~ 2.2-3801. Definitions.

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

30 1. ~~The term "information-"~~Information system means the total components and operations of a record-keeping
31 process, including information collected or managed by means of computer networks and the global information system
32 known as the Internet, whether automated or manual, containing personal information and the name, personal number, or
33 other identifying particulars of a data subject.

34 2. ~~The term "personal-"~~Personal information means all information that describes, locates or indexes anything about
35 an individual including his real or personal property holdings derived from tax returns, and his education, financial
36 transactions, medical history, ancestry, religion, political ideology, criminal or employment record, or that affords a basis for
37 inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and
38 the record of his presence, registration, or membership in an organization or activity, or admission to an institution. ~~The term~~
39 ~~does-"~~Personal information shall not include routine information maintained for the purpose of internal office administration
40 whose use could not be such as to affect adversely any data subject nor does the term include real estate assessment
41 information.

42 3. ~~The term "data-"~~Data subject means an individual about whom personal information is indexed or may be
43 located under his name, personal number, or other identifiable particulars, in an information system.

44 4. ~~The term "disseminate-"~~Disseminate means to release, transfer, or otherwise communicate information orally, in
45 writing, or by electronic means.

46 5. ~~The term "purge-"~~Purge means to obliterate information completely from the transient, permanent, or archival
47 records of an organization.

48 6. ~~The term "agency-"~~Agency means any agency, authority, board, department, division, commission, institution,
49 bureau, or like governmental entity of the Commonwealth or of any unit of local government including counties, cities, towns
50 and regional governments and the departments and including any entity, whether public or private, with which any of the
51 foregoing has entered into a contractual relationship for the operation of a system of personal information to accomplish an
52 agency function. Any such entity included in this definition by reason of a contractual relationship shall only be deemed an
53 agency as relates to services performed pursuant to that contractual relationship, provided that if any such entity is a
54 consumer reporting agency, it shall be deemed to have satisfied all of the requirements of this chapter if it fully complies with

the requirements of the Federal Fair Credit Reporting Act as applicable to services performed pursuant to such contractual relationship.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-384 2.2-3802.~~ Systems to which chapter inapplicable.

The provisions of this chapter shall not ~~be applicable~~ apply to personal information systems:

1. Maintained by any court of ~~this the~~ Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in ~~§§ 9-184 9.1-126~~ through ~~9-196 9.1-137~~;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed by law in ~~this the~~ Commonwealth to engage in the practice of any ~~professional occupation~~ profession, in which case the names and addresses of persons applying for or possessing ~~any such the~~ license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing ~~such the~~ licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided ~~such the~~ disseminating agency is reasonably assured that the use of ~~such the~~ information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission and the Department of Alcoholic Beverage Control;
7. Maintained by the Department of State Police; police departments of cities, counties, and towns; and the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23, and ~~which that~~ deal with investigations and intelligence gathering relating to criminal activity; and maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;
8. Maintained by the Virginia Port Authority as provided in § 62.1-134.1 or § 62.1-132.4;
9. Maintained by the Virginia ~~Economic Development Partnership~~ Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia ~~Economic Development Partnership~~ Tourism Authority is reasonably assured that the use of ~~such the~~ information will be so limited;
10. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Division of Forensic Science of the Department of Criminal Justice Services, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that ~~§ 9-196.14 9.1-121~~ may ~~be applicable~~ apply;
11. Maintained by the Department of Corrections ~~which that~~ deal with investigations and intelligence gathering by persons acting under the provisions of § 53.1-16; and
12. Maintained by the Department of the State Internal Auditor or internal audit departments of state agencies or institutions ~~which that~~ deal with communications and investigations relating to the State Employee Fraud, Waste and Abuse Hotline.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-384.1. Exception for state retirement systems.~~

~~Notwithstanding the provisions of § 2.1-380, the Virginia Retirement System may disseminate information as to the retirement status or benefit eligibility of any employee covered by the Virginia Retirement System, the Judicial Retirement System or the State Police Officers Retirement System, to the chief executive officer or personnel officers of the state or local agency by which he is employed.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection C in proposed § 2.2-3803 infra.

~~§ 2.1-380 2.2-3803.~~ Administration of systems including personal information; Internet privacy policy; exception for state retirement systems.

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

1. Collect, maintain, use, and disseminate only that personal information permitted or required by law to be so collected, maintained, used, or disseminated, or necessary to accomplish a proper purpose of the agency;
2. Collect information to the greatest extent feasible from the data subject directly;
3. Establish categories for maintaining personal information to operate in conjunction with confidentiality requirements and access controls;

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

3 5. Make no dissemination to another system without (i) specifying requirements for security and usage including
4 limitations on access thereto, and (ii) receiving reasonable assurances that those requirements and limitations will be
5 observed, ~~provided this~~. This subdivision shall not apply, however, to a dissemination made by an agency to an agency in
6 another state, district or territory of the United States where the personal information is requested by the agency of such other
7 state, district or territory in connection with the application of the data subject therein for a service, privilege or right under the
8 laws thereof, nor shall this apply to information transmitted to family advocacy representatives of the United States Armed
9 Forces in accordance with subsection O of § 63.1-248.6-G;

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

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

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

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

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

24 B. By December 1, 2000, every public body, as defined in ~~§ 2-1-344~~ 2.2-3701, that has an Internet website
25 associated with that public body shall develop an Internet privacy policy and an Internet privacy policy statement that explains
26 the policy to the public. The policy shall be consistent with the requirements of this chapter. By January 1, 2001, the
27 statement shall be made available on the public body's website in a conspicuous manner. The Secretary of Technology or his
28 designee shall provide guidelines for developing the policy and the statement, and each public body shall tailor the policy and
29 the statement to reflect the information practices of the individual public body. At minimum, the policy and the statement sh
30 address (i) what information, including personally identifiable information, will be collected, if any; (ii) whether any informat
31 will be automatically collected simply by accessing the website and, if so, what information; (iii) whether the website
32 automatically places a computer file, commonly referred to as a "cookie," on the Internet user's computer and, if so, for what
33 purpose; and (iv) how the collected information is being used or will be used.

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

38 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
39 A and B are § 2.1-380 and subsection C is § 2.1-384.1.

40 ~~§ 2-1-380.1~~ 2.2-3804. ~~Same; military~~ Military recruiters to have access to student information, school buildings, etc.

41 If a public school board or public institution of higher education provides access to its buildings and grounds and the
42 student information directory to persons or groups ~~which that~~ make students aware of occupational or educational options,
43 the board or institution shall provide access on the same basis to official recruiting representatives of the ~~military-armed~~
44 forces of the Commonwealth and the United States for the purpose of informing students of educational and career
45 opportunities available in the ~~military armed forces~~.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 2-1-384~~ 2.2-3805. ~~Same; dissemination~~ Dissemination of reports.

48 Any agency maintaining an information system that disseminates statistical reports or research findings based on
49 personal information drawn from its system, or from other systems shall:

50 1. Make available to any data subject or group, without revealing trade secrets, methodology and materials
51 necessary to validate statistical analysis, and

52 2. Make no materials available for independent analysis without guarantees that no personal information will be used
53 in any way that might prejudice judgments about any data subject.

54 **DRAFTING NOTE:** Technical corrections only.

1 | § ~~2-1-382~~ 2.2-3806. Rights of data subjects.

2 | A. Any agency maintaining personal information shall:

3 | 1. Inform an individual who is asked to supply personal information about himself whether he is legally required, or
4 | may refuse, to supply the information requested, and also of any specific consequences ~~which that~~ are known to the agency
5 | of providing or not providing ~~such the~~ information.

6 | 2. Give notice to a data subject of the possible dissemination of part or all of this information to another agency,
7 | nongovernmental organization or system not having regular access authority, and indicate the use for which it is intended,
8 | and the specific consequences for the individual, which are known to the agency, of providing or not providing ~~such the~~
9 | information, ~~however~~. However documented permission for dissemination in the hands of ~~such the~~ other agency or
10 | organization ~~will shall~~ satisfy ~~this the~~ requirement of this subdivision. ~~Such The~~ notice may be given on applications or other
11 | data collection forms prepared by data subjects.

12 | 3. Upon request and proper identification of any data subject, or of his authorized agent, grant ~~such the data subject~~
13 | or agent the right to inspect, in a form comprehensible to ~~such individual or agent~~ him:

14 | ~~(a) a.~~ a. All personal information about that data subject except as provided in subdivisions A. 3., A. 4., and A. 5. of §
15 | 2-1-342-B-3 2.2-3705.

16 | ~~(b) b.~~ b. The nature of the sources of the information.

17 | ~~(c) c.~~ c. The names of recipients, other than those with regular access authority, of personal information about the data
18 | subject including the identity of all persons and organizations involved and their relationship to the system when not having
19 | regular access authority, except that if the recipient has obtained the information as part of an ongoing criminal investigation
20 | such that disclosure of the investigation would jeopardize law-enforcement action, then no disclosure of such access shall be
21 | made to the data subject.

22 | 4. Comply with the following minimum conditions of disclosure to data subjects:

23 | ~~(a) a.~~ a. An agency shall make disclosures to data subjects required under this chapter, during normal business hours.

24 | ~~(b) b.~~ b. The disclosures to data subjects required under this chapter shall be made (i) in person, if he appears in
25 | person and furnishes proper identification, or (ii) by mail, if he has made a written request, with proper identification. Copies of
26 | the documents containing the personal information sought by a data subject shall be furnished to him or his representative at
27 | reasonable standard charges for document search and duplication.

28 | ~~(c) c.~~ c. The data subject shall be permitted to be accompanied by a person ~~or persons~~ of his choosing, who shall
29 | furnish reasonable identification. An agency may require the data subject to furnish a written statement granting the agency
30 | permission to ~~the organization to~~ discuss the individual's file in such person's presence.

31 | 5. If the data subject gives notice that he wishes to challenge, correct, or explain information about him in the
32 | information system, the following minimum procedures shall be followed:

33 | ~~(a) a.~~ a. The agency maintaining the information system shall investigate, and record the current status of that personal
34 | information.

35 | ~~(b) b.~~ b. If, after such investigation, ~~such the~~ information is found to be incomplete, inaccurate, not pertinent, not timely,
36 | or not necessary to be retained, it shall be promptly corrected or purged.

37 | ~~(c) c.~~ c. If the investigation does not resolve the dispute, the data subject may file a statement of not more than 200
38 | words setting forth his position.

39 | ~~(d) d.~~ d. Whenever a statement of dispute is filed, the ~~organization agency~~ maintaining the information system shall
40 | supply any previous recipient with a copy of the statement and, in any subsequent dissemination or use of the information in
41 | question, clearly note that it is disputed and supply the statement of the data subject along with the information.

42 | ~~(e) e.~~ e. The agency maintaining the information system shall clearly and conspicuously disclose to the data subject his
43 | rights to make such a request.

44 | ~~(f) f.~~ f. Following any correction or purging of personal information the agency shall furnish to past recipients
45 | notification that the item has been purged or corrected whose receipt shall be acknowledged.

46 | B. Nothing in ~~this section or found elsewhere in~~ this chapter shall be construed ~~so as to~~ require an agency to
47 | disseminate any recommendation or letter of reference from or to a third party ~~which that~~ is a part of the personnel file of any
48 | data subject nor to disseminate any test or examination used, administered or prepared by any public body for purposes of
49 | evaluation of (i) any student or any student's performance, (ii) any seeker's qualifications or aptitude for employment,
50 | retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

51 | As used in this subsection, "test or examination" ~~shall include~~ includes (i) any scoring key for any such test or
52 | examination and (ii) any other document ~~which that~~ would jeopardize the security of ~~such the~~ test or examination. Nothing
53 | contained in this subsection shall prohibit the release of test scores or results as provided by law, or to limit access to
54 | individual records as ~~is~~ provided by law; however, the subject of ~~such the~~ employment tests shall be entitled to review and
55 | inspect all documents relative to his performance on ~~such those~~ employment tests.

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

6 C. Neither any provision of this chapter nor any provision of ~~Chapter 24 the~~ Freedom of Information Act (~~§ 2.1-340~~
7 ~~2.2-3700 et seq.~~) of ~~this title~~ shall be construed as ~~denying to deny~~ public access to records of the position, job classification,
8 official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any public officer,
9 official or employee at any level of state, local or regional government in ~~this the~~ Commonwealth ~~whatsoever~~. The provisions
10 of this subsection shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of
11 pay is \$10,000 or less.

12 D. Nothing in this section or in this chapter shall be construed to require an agency to disseminate information
13 derived from tax returns in violation of §§ ~~2.1-342 2.2-3705~~ and 58.1-3.

14 **DRAFTING NOTE:** Technical corrections only. Citations in this section to the Freedom of Information were never updated
15 when the Freedom of Information Act was substantially revised in 1999. As a result of this omission, corrections now have
16 been made to correctly cite to current code.

17 ~~§ 2.1-383 2.2-3807.~~ Agencies to report concerning systems operated or developed; publication of information.

18 Every agency shall make report of the existence of any information system ~~which that~~ it operates or develops ~~which~~
19 ~~that will~~ shall include a description of the nature of the data in the system and purpose for which it is used. An inventory listing
20 or similar display of ~~each the~~ information shall be made available for inspection by the general public in the office of the head
21 of each agency. Copies of ~~each the~~ information shall be provided upon request and a fee shall be charged for ~~the same them~~
22 sufficient to cover the reasonable costs of reproduction.

23 **DRAFTING NOTE:** Technical corrections only.

24 ~~§ 2.1-385 2.2-3808.~~ Disclosure of social security number.

25 ~~On or after July 1, 1977, it~~ It shall be unlawful for any agency to require an individual to disclose or furnish his social
26 security account number not previously disclosed or furnished, for any purpose in connection with any activity, or to refuse
27 any service, privilege or right to an individual wholly or partly because ~~each the~~ individual does not disclose or furnish such
28 number, unless the disclosure or furnishing of such number is specifically required by federal or state law.

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§ 2.1-386 2.2-3809.~~ Injunctive relief; attorneys' fees.

31 Any aggrieved person may institute a proceeding for injunction or mandamus against any person or agency ~~which~~
32 ~~that~~ has engaged, is engaged, or is about to engage in any acts or practices in violation of the provisions of this chapter. The
33 proceeding shall be brought in the circuit court of any county or city wherein the person or agency made defendant resides or
34 has a place of business.

35 In the case of any successful proceeding by an aggrieved party, the person or agency enjoined or made subject to a
36 writ of mandamus by the court shall be liable for the costs of the action together with reasonable ~~attorney's~~ attorneys' fees as
37 determined by the court.

38 **DRAFTING NOTE:** Technical corrections only.

39 CHAPTER 39.

40 VIRGINIA HUMAN RIGHTS ACT.

41 ~~§ 2.1-714 2.2-3900.~~ Short title; declaration of policy.

42 A. This chapter shall be known and cited as the Virginia Human Rights Act.

43 B. It is the policy of the Commonwealth to:

44 1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion,
45 national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability, in places of public
46 accommodation, including educational institutions and in real estate transactions; in employment; preserve the public safety,
47 health and general welfare; and further the interests, rights and privileges of individuals within the Commonwealth; and

48 2. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

49 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
50 A is § 2.1-714 and subsection B is § 2.1-715.

51 ~~§ 2.1-715. Declaration of policy.~~

It is the policy of the Commonwealth of Virginia:

1. ~~To safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability, in places of public accommodation, including educational institutions and in real estate transactions; in employment; to preserve the public safety, health and general welfare; and to further the interests, rights and privileges of individuals within the Commonwealth; and~~

2. ~~To protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-3900 supra.

§ 2.1-746 2.2-3901. Unlawful discriminatory practice defined.

Conduct ~~which that~~ violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability shall be an "unlawful discriminatory practice" for the purposes of this chapter.

DRAFTING NOTE: Technical corrections only.

§ 2.1-747 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors and the elderly.

The provisions of this chapter shall be construed liberally for the accomplishment of its policies. Nothing contained in this chapter shall be deemed to repeal, supersede or expand upon any of the provisions of any other state or federal law relating to discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability.

Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege ~~which that~~ is afforded, oriented or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of eighteen years (i) where ~~such the~~ differentiation is reasonably necessary to normal operation or ~~such the~~ activity is based upon reasonable factors other than age or (ii) where ~~such the~~ program, law or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety and welfare of the population at large.

Complaints filed with the Human Rights Council (the "Council") in accordance with § 2.2-2634 alleging unlawful discriminatory practice under a Virginia statute ~~which that~~ is enforced by a Virginia agency shall be referred to ~~such that~~ agency. The Council may investigate complaints alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve ~~same it~~ through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over the complaint. Upon such referral, the Council shall have no further jurisdiction over the complaint. The Council shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to § 15.2-965.

DRAFTING NOTE: Technical corrections only.

CHAPTER 40.

ADMINISTRATIVE PROCESS ACT.

CHAPTER DRAFTING NOTE: The Administrative Process Act has been incorporated into proposed Title 2.2 because it concerns the administration of state government. A significant change appears in the exemption section (existing § 9-6.14:4.1) of the Administrative Process Act. This section has been extensively reorganized and rewritten. Each subsection of this section has become a separate section and moved to the beginning of the article to which that group of exemptions apply as follows: exemptions from the entire Administrative Process Act have been placed in Article 1, General Provisions, as proposed § 2.2-4002 (existing § 9-6.14:4.1, subsections A and B); exemptions from Article 2, Regulations, (existing subsections C and G) now appear at the beginning of Article 2 as proposed § 2.2-4006. Exemptions from Article 3, Case Decisions, (existing subsection D) now appear at the beginning of Article 3 as proposed § 2.2-4018. Subsection E, an exemption from existing Article 4, Court Review, now appears at the beginning of proposed Article 5 still entitled Court Review as proposed § 2.2-4025.

Article 1.

General Provisions.

§ 9-6.14:1 2.2-4000. Short title; purpose.

A. This chapter may be cited as the "Administrative Process Act."

B. The purpose of this chapter is to supplement present and future basic laws conferring authority on agencies either to make regulations or decide cases as well as to standardize court review thereof save as laws hereafter enacted may

1 otherwise expressly provide. This chapter shall not supersede or repeal additional procedural requirements in such basi
2 laws.

3 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
4 A is § 9-6.14:1 and subsection B is § 9-6.14:3.

5 ~~§ 9-6.14:2. Effect of repeal of the General Administrative Agencies Act and enactment of this chapter.~~

6 ~~A. The repeal of Chapter 1.1 (§ 9-6.1 et seq.) of this title, which is entitled the General Administrative Agencies Act~~
7 ~~but which will be hereinafter referred to as Chapter 1.1, shall in no way affect the validity of any regulation that has been~~
8 ~~adopted and promulgated under Chapter 1.1 prior to the effective date of this chapter.~~

9 ~~B. Whenever any reference is made in this Code to the General Administrative Agencies Act, the applicable~~
10 ~~provisions of this chapter are substituted therefor.~~

11 **DRAFTING NOTE:** This section has been deleted as obsolete. The Administrative Process Act was enacted in 1975
12 (Chapter 503 of the 1975 Acts of Assembly).

13 ~~§ 9-6.14:3. Policy.~~

14 ~~The purpose of this chapter is to supplement present and future basic laws conferring authority on agencies either to~~
15 ~~make regulations or decide cases as well as to standardize court review thereof save as laws hereafter enacted may~~
16 ~~otherwise expressly provide. This chapter does not supersede or repeal additional procedural requirements in such basic~~
17 ~~laws.~~

18 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-4000 supra.

19 ~~§ 9-6.14:4~~ 2.2-4001. Definitions.

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

21 "Agency" means any authority, instrumentality, officer, board or other unit of the state government empowered by the
22 basic laws to make regulations or decide cases.

23 "Agency action" means either an agency's regulation or case decision or both, any violation, compliance, or
24 noncompliance with which could be a basis for the imposition of injunctive orders, penal or civil sanctions of any kind, or the
25 grant or denial of relief or of a license, right, or benefit by any agency or court.

26 "Basic law" or "basic laws" means provisions of the Constitution and statutes of the Commonwealth of Virginia
27 authorizing an agency to make regulations or decide cases or containing procedural requirements therefor.

28 "Case" or "case decision" means any agency proceeding or determination that, under laws or regulations at the time,
29 a named party as a matter of past or present fact, or of threatened or contemplated private action, either is, is not, or may or
30 may not be (i) in violation of such law or regulation or (ii) in compliance with any existing requirement for obtaining or retaining
31 a license or other right or benefit.

32 "Guidance document" means any document developed by a state agency or staff that provides information or
33 guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations,
34 excluding agency minutes or documents that pertain only to the internal management of agencies. Nothing in this definition
35 shall be construed or interpreted to expand the identification or release of any document otherwise protected by law.

36 "Hearing" means agency processes other than those informational or factual inquiries of an informal nature provided
37 in ~~§§ 9-6.14:7-1~~ 2.2-4007 and ~~9-6.14:44~~ 2.2-4019 of this chapter and includes only (i) opportunity for private parties to submit
38 factual proofs in formal proceedings as provided in ~~§ 9-6.14:8~~ of this chapter 2.2-4009 in connection with the making of
39 regulations or (ii) a similar right of private parties or requirement of public agencies as provided in ~~§ 9-6.14:12~~ hereof 2.2-4020
40 in connection with case decisions.

41 "Hearing officer" means an attorney selected from a list maintained by the Executive Secretary of the Supreme Court
42 in accordance with § 2.2-4024.

43 "Public assistance programs" means those programs specified in § 63.1-87.

44 "Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or
45 conduct of any person, ~~promulgated-adopted~~ by an agency in accordance with the authority conferred on it by applicable
46 basic laws.

47 "Subordinate" means (i) one or more but less than a quorum of the members of a board constituting an agency, (ii)
48 one or more of its staff members or employees, or (iii) any other person or persons designated by the agency to act in its
49 behalf.

50 **DRAFTING NOTE:** Technical corrections. The definition of public assistance programs was derived from subsection J of
51 existing § 9-6.14:7:1. A definition of "hearing officer" has been added to eliminate repetitive language.

52 ~~§ 9-6.14:4.1~~ 2.2-4002. Exemptions and exclusions from chapter generally.

1 A. Although required to comply with ~~§ 9-6-18 2.2-4103~~ of the Virginia Register Act (~~§ 9-6-15 2.2-4100~~ et seq.), the
2 following agencies ~~are shall be~~ exempted from the provisions of this chapter, except to the extent that they are specifically
3 made subject to ~~§§ 9-6-14:14.1, 9-6-14:212.2-4024, 2.2-4030 and 9-6-14:22 2.2-4031~~:

4 1. The General Assembly.

5 2. Courts, any agency of the Supreme Court, and any agency ~~which that~~ by the Constitution is expressly granted any
6 of the powers of a court of record.

7 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife
8 and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§
9 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

10 4. The Virginia Housing Development Authority.

11 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code,
12 including those with federal authorities.

13 6. Educational institutions operated by the Commonwealth, provided that, with respect to ~~§ 9-6-14:22 2.2-4031~~, such
14 educational institutions shall be exempt from the publication requirements only with respect to regulations ~~which that~~ pertain
15 to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of
16 students; and (iv) rules of conduct and disciplining of students.

17 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification
18 and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of
19 payment, butterfat testing and differential.

20 8. The Virginia Resources Authority.

21 9. Agencies expressly exempted by any other provision of this Code.

22 10. The Virginia Voluntary Formulary Board in formulating recommendations regarding amendments to the
23 Formulary pursuant to § 32.1-81.

24 ~~11. (Repealed.)~~

25 ~~1211.~~ The Department of General Services in promulgating standards for the inspection of buildings for asbestos
26 pursuant to ~~§ 2-1-526-14 2.2-1164~~.

27 ~~13, 14. (Repealed.)~~

28 ~~1512.~~ The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to
29 § 23-9.6:2.

30 ~~1613.~~ The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of
31 § 3.1-726.

32 ~~1714.~~ The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer
33 Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4, subsection B of § 3.1-126.12:1, § 3.1-
34 271.1, § 3.1-398, subsections B and C of § 3.1-828.4, and subsection A of § 3.1-884.21:1.

35 ~~1815.~~ The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and
36 diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5
37 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

38 ~~1916.~~ The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating amendments to the
39 Physician Assistant Formulary established pursuant to § 54.1-2952.1.

40 ~~2017.~~ The Virginia War Memorial Foundation.

41 ~~2118.~~ The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to the Board of
42 Medical Assistance Services regarding prior authorization for prescription drug coverage pursuant to Article 4 (§ 32.1-331.12
43 et seq.) of Chapter 10 of Title 32.1.

44 ~~2219.~~ The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-280.3.

45 ~~2320.~~ The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters
46 related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings
47 licensed by the Commission.

48 ~~2421.~~ The Virginia Small Business Financing Authority.

49 ~~2522.~~ The Virginia Economic Development Partnership Authority.

50 ~~2623.~~ The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to
51 subsection A (ii) of § 59.1-156.

52 ~~2724.~~ The Insurance Continuing Education Board pursuant to § 38.2-1867.

53 ~~2825.~~ The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health
54 pursuant to § 32.1-35.

1 ~~29. The Virginia Racing Commission in promulgating technical rules regulating actual live horse racing at race~~
2 ~~meetings licensed by the Commission.~~

3 B. Agency action relating to the following subjects ~~is shall be~~ exempted from the provisions of this chapter:

4 1. Money or damage claims against the Commonwealth or agencies thereof.

5 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

6 3. The location, design, specifications or construction of public buildings or other facilities.

7 4. Grants of state or federal funds or property.

8 5. The chartering of corporations.

9 6. Customary military, naval or police functions.

10 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the
11 Commonwealth.

12 8. The conduct of elections or eligibility to vote.

13 9. Inmates of prisons or other such facilities or parolees therefrom.

14 10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the
15 treatment, supervision, or discharge of such persons.

16 11. Traffic signs, markers or control devices.

17 12. Instructions for application or renewal of a license, certificate, or registration required by law.

18 13. Content of, or rules for the conduct of, any examination required by law.

19 14. The administration of ~~a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter 14 of Title 2.1~~
20 ~~Chapter 47 (§ 2.2-4700 et seq.) of this title.~~

21 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted
22 regulations of the State Lottery Board, and provided that such regulations are published and posted.

23 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or
24 crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

25 17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant
26 to § 32.1-283.1.

27 18. The regulations for the implementation of the Health Practitioners' Intervention Program and the activities of the
28 Intervention Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

29 19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative
30 Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1.

31 20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1
32 et seq.) of Chapter 11.1 of Title 10.1.

33 21. The Virginia Breeders Fund created pursuant to § 59.1-372.

34 22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

35 23. The administration of medication or other substances foreign to the natural horse.

36 C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act,
37 Chapter 41 (§ 2.2-4100 et seq.) of this title, made by the Virginia Code Commission pursuant to § 30-150, shall be exempt
38 from the provisions of this chapter.

39 ~~G. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act are~~
40 ~~excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:~~

41 1. ~~Agency orders or regulations fixing rates or prices.~~

42 2. ~~Regulations which establish or prescribe agency organization, internal practice or procedures, including~~
43 ~~delegations of authority.~~

44 3. ~~Regulations which consist only of changes in style or form or corrections of technical errors. Each promulgating~~
45 ~~agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or~~
46 ~~replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision~~
47 ~~identification listed.~~

48 4. ~~Regulations which:~~

49 (a) ~~Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency~~
50 ~~discretion is involved;~~

51 (b) ~~Are required by order of any state or federal court of competent jurisdiction where no agency discretion is~~
52 ~~involved; or~~

3 (e) ~~Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ~~
4 ~~materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the~~
5 ~~proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not~~
6 ~~less than thirty days prior to the effective date thereof.~~

7 ~~5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of this~~
8 ~~subdivision, "emergency situation" means (i) a situation involving an imminent threat to public health or safety or (ii) a~~
9 ~~situation in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation~~
10 ~~shall be effective in 280 days or less from enactment of the law or the appropriation act or the effective date of the federal~~
11 ~~regulation, and the regulation is not exempt under the provisions of subdivision C 4 of this section. In such cases, the agency~~
12 ~~shall state in writing the nature of the emergency and of the necessity for such action and may adopt such regulations.~~
13 ~~Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the Governor and filing with the Registrar of~~
14 ~~Regulations. Such regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an~~
15 ~~agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency~~
16 ~~regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the~~
17 ~~effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by~~
18 ~~the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be~~
19 ~~promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this chapter. The Notice of Intended Regulatory Action to~~
20 ~~promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency~~
21 ~~regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar~~
22 ~~within 180 days after the effective date of the emergency regulation and published as soon as practicable.~~

23 ~~6. (Repealed.)~~

24 ~~7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C~~
25 ~~of § 10.1-1322.2.~~

26 ~~8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi)~~
27 ~~of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.~~

28 ~~9. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and~~
29 ~~(ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title~~
30 ~~54.1 which are limited to reducing fees charged to regulants and applicants.~~

31 ~~10. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of~~
32 ~~Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.202:55.~~

33 ~~11. General permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of~~
34 ~~Title 10.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B~~
35 ~~of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms~~
36 ~~a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in~~
37 ~~the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection~~
38 ~~F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.~~

39 ~~12. General permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2~~
40 ~~et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the Board: (i)~~
41 ~~provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii)~~
42 ~~following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical~~
43 ~~advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the~~
44 ~~development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of~~
45 ~~§ 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.~~

46 ~~13. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions~~
47 ~~relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.~~

48 ~~14. Regulations of the Board of the Virginia College Savings Plan promulgated pursuant to § 23-38.77.~~

49 ~~15. The development and issuance of general wetlands permits by the Marine Resources Commission pursuant to~~
50 ~~subsection B of § 28.2-1307 if the Commission: (i) provides a Notice of Intended Regulatory Action in conformance with the~~
51 ~~provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from publication of the Notice of Intended~~
52 ~~Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected~~
53 ~~citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment~~
54 ~~as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.~~

55 ~~Whenever regulations are adopted under this subsection, the agency shall state as part thereof that it will receive,~~
56 ~~consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The~~
57 ~~effective date of regulations adopted under this subsection shall be in accordance with the provisions of § 9-6.14:9.3, except~~
58 ~~in the case of emergency regulations, which shall become effective as provided in subsection B of § 9-6.14:9.~~

59 ~~D. The following agency actions otherwise subject to this chapter are excluded from the operation of Article 3 (§ 9-~~
60 ~~6.14:11 et seq.) of this chapter:~~

1 ~~1. The assessment of taxes or penalties and other rulings in individual cases in connection with the administration of~~
2 ~~the tax laws.~~

3 ~~2. The award or denial of claims for workers' compensation.~~

4 ~~3. The grant or denial of public assistance.~~

5 ~~4. Temporary injunctive or summary orders authorized by law.~~

6 ~~5. The determination of claims for unemployment compensation or special unemployment.~~

7 ~~6. The suspension of any license, certificate, registration or authority granted any person by the Department of~~
8 ~~Health Professions or the Department of Professional and Occupational Regulation for the dishonor, by a bank or financial~~
9 ~~institution named, of any check, money draft or similar instrument used in payment of a fee required by statute or regulation.~~

10 ~~E. Appeals from decisions of the Governor's Employment and Training Department otherwise subject to this chapter~~
11 ~~are excluded from the operation of Article 4 (§ 9-6.14:15 et seq.) of this chapter.~~

12 ~~F. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act, is~~
13 ~~excluded from the operation of subdivision C 5 of this section and of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter.~~

14 ~~G. A regulation for which an exemption is claimed under this section and which is placed before a board or~~
15 ~~commission for consideration shall be provided at least two days in advance of the board or commission meeting to members~~
16 ~~of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending~~
17 ~~such meeting.~~

18 ~~H. The Joint Legislative Audit and Review Commission shall conduct a review periodically of exemptions and~~
19 ~~exclusions authorized by this section. The purpose of this review shall be to assess whether there are any exemptions or~~
20 ~~exclusions which should be discontinued or modified.~~

21 ~~I. Minor changes to regulations being published in the Virginia Administrative Code under the Virginia Register Act,~~
22 ~~Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code Commission pursuant to § 9-77.10:1 shall be exempt~~
23 ~~from the provisions of this chapter.~~

24 **DRAFTING NOTE:** Technical corrections. Existing § 9-6.14:41 has been rewritten and divided into individual sections as
25 follows: Exemptions from the entire Administrative Process Act have been placed in Article 1, General Provisions as
26 proposed § 2.2-4002 (existing § 9-6.14:4.1, subsections A and B); exemptions from Article 2, Regulations, (existing
27 subsections C and G) now appear at the beginning of Article 2 as proposed § 2.2-4006. Exemptions from Article 3, Case
28 Decisions, (existing subsection D) now appear at the beginning of Article 3 as proposed § 2.2-4018. Subsection E, an
29 exemption from existing Article 4, Court Review, now appears at the beginning of proposed Article 5, still entitled Court
30 Review as proposed § 2.2-4025. Subsection H now appears as proposed § 2.2-4005 at the end of Article 1, General
31 Provisions. Subsection I now appears as subsection C in the Exemptions from the APA generally. In the proposed section
32 above, existing subdivision 29 has been incorporated with proposed subdivision 20 because both deal with exemptions for
33 the Virginia Racing Commission.

34 ~~§ 9-6.14:5 2.2-4003. Venue.~~

35 Unless the parties otherwise agree, in all proceedings under §§ ~~9-6.14:14 2.2-4019, 9-6.14:12 2.2-4020~~ or § ~~9-~~
36 ~~6-14:16 2.2-4026~~ the venue for agency or court proceedings shall be as specified in subdivision 1 of § 8.01-261.

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 9-6.14:5.1 2.2-4004. Severability.~~

39 The provisions of regulations ~~promulgated~~ adopted under this chapter or the application thereof to any person or
40 circumstances ~~which that~~ are held invalid shall not affect the validity of other regulations, provisions or applications ~~which that~~
41 can be given effect without the invalid provisions or applications. The provisions of all regulations are severable unless (i) the
42 regulation specifically provides that its provisions are not severable; or (ii) it is apparent that two or more regulations or
43 provisions must operate in accord with one another.

44 **DRAFTING NOTE:** Technical corrections only.

45 § 2.2-4005. Review of exemptions by Joint Legislative Audit and Review Commission.

46 The Joint Legislative Audit and Review Commission shall conduct a review periodically of the exemptions authorized
47 by this chapter. The purpose of this review shall be to assess whether there are any exemptions that should be discontinued
48 or modified.

49 **DRAFTING NOTE:** Technical corrections. This proposed section is subsection H from existing § 9-6.14:4.1.

50 Article 2.

51 Regulations.

52 § 2.2-4006. Exemptions from requirements of this article.

1 A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be
2 exempted from the operation of this article:

3 1. Agency orders or regulations fixing rates or prices.

4 2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations
5 of authority.

6 3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating
7 agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or
8 replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision
9 identification listed.

10 4. Regulations that are:

11 a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is
12 involved;

13 b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

14 c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ
15 materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the
16 proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less
17 than thirty days prior to the effective date of the regulation.

18 5. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C
19 of § 10.1-1322.2.

20 6. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi)
21 of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

22 7. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and
23 (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title
24 54.1 that are limited to reducing fees charged to regulants and applicants.

25 8. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of
26 Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

27 9. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.)
28 of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§
29 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 and (c) the development and issuance of
30 general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective
31 Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B
32 of § 2.2-4007, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a
33 technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in
34 the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection
35 F of § 2.2-4007, and (iv) conducts at least one public hearing on the proposed general permit.

36 10. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions
37 relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

38 11. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23-38.77.

39 12. Regulations of the Marine Resources Commission.

40 B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive,
41 consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The
42 effective date of regulations adopted under this subsection shall be in accordance with the provisions of § 2.2-4015, except in
43 the case of emergency regulations, which shall become effective as provided in subsection B of § 2.2-4012 (9-6.14:9).

44 C. A regulation for which an exemption is claimed under this section or §§ 2.2-4002, or 2.2-4011 and that is placed
45 before a board or commission for consideration shall be provided at least two days in advance of the board or commission
46 meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to
47 the public attending such meeting.

48 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of subsections C, F and G of existing § 9-
49 6.14.4:1 with the following exceptions. The language relating to the adoption of emergency regulations has been made a
50 separate section (proposed § 2.2-4011), which follows this exemption section.

51 And the exemptions for the State Air Pollution Control Board, the State Water Pollution Control Board, and the
52 Marine Resources Commission (existing subdivisions 11, 12 and 15) of subsection C of § 9-6.14:4.1 have been consolidated
53 into a single exemption.

54 § ~~9-6.14:7.1~~ 2.2-4007. Public Notice of intended regulatory action; public participation; informational proceedings;
55 effect of noncompliance.

1 A. Any person may petition an agency to request the agency to develop a new regulation or amend an existing
2 regulation. The agency receiving the petition shall consider and respond to the petition within 180 days. Agency decisions to
3 initiate or not initiate rulemaking in response to petitions ~~are~~ shall not be subject to judicial review.

4 B. In the case of all regulations, except those regulations exempted by ~~§ 9-6-14:4.1~~ 2.2-4002, 2.2-4006 or 2.2-4011,
5 an agency shall provide the Registrar of Regulations with a Notice of Intended Regulatory Action ~~which that~~ describes the
6 subject matter and intent of the planned regulation. At least thirty days shall be provided for public comment after publication
7 of the Notice of Intended Regulatory Action. An agency shall not file proposed regulations with the Registrar until the public
8 comment period on the Notice of Intended Regulatory Action has closed.

9 C. Agencies shall state in the Notice of Intended Regulatory Action whether they plan to hold a public hearing on the
10 proposed regulation after it is published. Agencies shall hold such public hearings if required by basic law. If the agency
11 states an intent to hold a public hearing on the proposed regulation in the Notice of Intended Regulatory Action, then it shall
12 hold the public hearing. If the agency states in its Notice of Intended Regulatory Action that it does not plan to hold a hearing
13 on the proposed regulation, then no public hearing is required unless, prior to completion of the comment period specified in
14 the Notice of Intended Regulatory Action: (i) the Governor directs ~~that the agency shall to~~ hold a public hearing or (ii) the
15 agency receives requests for a public hearing from at least twenty-five persons or more.

16 D. Public participation guidelines for soliciting the input of interested parties in the formation and development of its
17 regulations shall be developed, adopted and utilized by each agency pursuant to the provisions of this chapter. The
18 guidelines shall set out any methods for the identification and notification of interested parties, and any specific means of
19 seeking input from interested persons or groups ~~which that~~ the agency intends to use in addition to the Notice of Intended
20 Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and
21 consultation with groups and individuals registering interest in working with the agency. Such policy shall address the
22 circumstances in which the agency considers ~~such the~~ panels or consultation appropriate and intends to make use of ~~such~~
23 the panels or consultation.

24 E. In formulating any regulation, including but not limited to those in public assistance programs, the agency
25 pursuant to its public participation guidelines shall afford interested persons an opportunity to submit data, views, and
26 arguments, either orally or in writing, to the agency or its specially designated subordinate. However, the agency may, ~~at its~~
27 discretion, begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit ~~input~~
28 comments.

29 F. In the case of all regulations, except those regulations exempted by ~~§ 9-6-14:4.1~~ 2.2-4002, 2.2-4006, or 2.2-4011,
30 the proposed regulation and general notice of opportunity for oral or written submittals as to that regulation shall be published
31 in the Virginia Register of Regulations in accordance with the provisions of subsection B of ~~§ 9-6-14:22~~ 2.2-4031. In addition,
32 the agency may, in its discretion, (i) publish the notice in any newspaper and (ii) publicize the notice through press releases
33 and such other media as will best serve the purpose and subject involved. The Register and any newspaper publication shall
34 be made at least sixty days in advance of the last date prescribed in the notice for such submittals. All notices, written
35 submittals, and transcripts, summaries or notations of oral presentations, as well as any agency action thereon, shall be
36 matters of public record in the custody of the agency.

37 G. Before delivering any proposed regulation under consideration to the Registrar as required in subsection H ~~below~~,
38 the agency shall deliver a copy of that regulation to the Department of Planning and Budget. In addition to determining the
39 public benefit, the Department of Planning and Budget in coordination with the agency, shall, within forty-five days, prepare
40 an economic impact analysis of the proposed regulation. The economic impact analysis shall include, but need not be limited
41 to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and
42 types of businesses or other entities particularly affected by the regulation; the projected number of persons and employment
43 positions to be affected; the impact of the regulation on the use and value of private property; and the projected costs to
44 affected businesses, localities or entities to implement or comply with ~~such the~~ regulations, including the estimated fiscal
45 impact on such localities and sources of potential funds to implement and comply with such regulation. Agencies shall provide
46 the Department with such estimated fiscal impacts on localities and sources of potential funds. The Department may request
47 the assistance of any other agency in preparing the analysis. The Department shall deliver a copy of the analysis to the
48 agency drafting the regulation, which shall comment thereon as provided in subsection H, and a copy to the Registrar for
49 publication with the proposed regulation. No regulation shall be promulgated for consideration pursuant to subsection H until
50 ~~such the~~ impact analysis has been received by the Registrar. For purposes of this section, the term "locality, business, or
51 entity particularly affected" means any locality, business, or entity ~~which that~~ bears any identified disproportionate material
52 impact ~~which that~~ would not be experienced by other localities, businesses, or entities. The analysis shall represent the
53 Department's best estimate for the purposes of public review and comment on the proposed regulation. The accuracy of the
54 estimate shall in no way affect the validity of the regulation, nor shall any failure to comply with or otherwise follow the
55 procedures set forth in this subsection create any cause of action or provide standing for any person under Article 4.5 (~~§ 9-~~
56 ~~6-14:15-~~ 2.2-4025 et seq.) of this chapter or otherwise to challenge the actions of the Department hereunder or the action of
57 the agency in adopting the proposed regulation.

58 H. Before promulgating any regulation under consideration, the agency shall deliver a copy of that regulation to the
59 Registrar together with a summary of the regulation and a separate and concise statement of (i) the basis of the regulation,
60 defined as the statutory authority for promulgating the regulation, including an identification of the section number and a brief

statement relating the content of the statutory authority to the specific regulation proposed; (ii) the purpose of the regulation, defined as the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare; (iii) the substance of the regulation, defined as the identification and explanation of the key provisions of the regulation that make changes to the current status of the law; (iv) the issues of the regulation, defined as the primary advantages and disadvantages for the public, and as applicable for the agency or the state, of implementing the new regulatory provisions; and (v) the agency's response to the economic impact analysis submitted by the Department of Planning and Budget pursuant to subsection G. Any economic impact estimate included in the agency's response shall represent the agency's best estimate for the purposes of public review and comment, but the accuracy of the estimate shall in no way affect the validity of the regulation. Staff as designated by the Code Commission shall review proposed regulation submission packages to ensure the requirements of this subsection are met prior to publication of the proposed regulation in the Register. The summary; the statement of the basis, purpose, substance, and issues; the economic impact analysis; and the agency's response shall be published in the Virginia Register of Regulations, together with the notice of opportunity for oral or written submittals on the proposed regulation.

I. When an agency formulating regulations in public assistance programs cannot comply with the public comment requirements of subsection F ~~of this section~~ due to time limitations imposed by state or federal laws or regulations for the adoption of such regulation, the Secretary of Health and Human Resources may shorten the time requirements of subsection F. If, in the Secretary's sole discretion, such time limitations reasonably preclude any advance published notice, he may waive the requirements of subsection F. However, the agency shall, as soon as practicable after the adoption of the regulation in a manner consistent with the requirements of subsection F, publish notice of the promulgation of the regulation and afford an opportunity for public comment. The precise factual basis for the Secretary's determination shall be stated in the published notice.

~~J. For the purpose of this article, public assistance programs shall consist of those specified in § 63.1-87.~~

KJ. If one or more changes with substantial impact are made to a proposed regulation from the time that it is published as a proposed regulation to the time it is published as a final regulation, any person may petition the agency within thirty days from the publication of the final regulation to request an opportunity for oral and written submittals on the changes to the regulation. If the agency receives requests from at least twenty-five persons for an opportunity to submit oral and written comments on the changes to the regulation, the agency shall (i) suspend the regulatory process for thirty days to solicit additional public comment and (ii) file notice of the additional thirty-day public comment period with the Registrar of Regulations, unless the agency determines that the changes made are minor or inconsequential in their impact. The comment period, if any, shall begin on the date of publication of the notice in the Register. Agency denial of petitions for a comment period on changes to the regulation shall be subject to judicial review.

LK. In no event shall the failure to comply with the requirements of subsection F of this section be deemed mere harmless error for the purposes of ~~§ 9-6-14:17 2.2-4027~~.

ML. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

DRAFTING NOTE: Technical corrections. Existing subsection J has been moved to proposed § 2.2-4001, the definitional section.

~~§ 9-6-14:7.2 2.2-4008~~. Availability of guidance documents.

It shall be the duty of every agency to annually file with the Registrar for publication in the Virginia Register of Regulations a list of any guidance documents upon which the agency currently relies. ~~Such~~ The filing shall be made on or before January 1 of each year in a format to be developed by the Registrar. Each agency shall also (i) maintain a complete list of all of its currently operative guidance documents and make ~~such~~ the list available for public inspection, (ii) make available for public inspection the full texts of all ~~such~~ guidance documents to the extent ~~such~~ inspection is permitted by law, and (iii) upon request, make copies of such lists or guidance documents available without charge, at cost, or on payment of a reasonable fee.

DRAFTING NOTE: Technical corrections only.

~~§ 9-6-14:8 2.2-4009~~. ~~Evidential~~ Evidentiary hearings on regulations.

Where an agency proposes to consider the exercise of authority to promulgate a regulation, it may conduct or give interested persons an opportunity to participate in a public ~~evidential~~ evidentiary proceeding; and the agency shall always do so where the basic law requires a hearing. ~~Such evidential~~ Evidentiary hearings may be limited to the trial of factual issues directly ~~relevant~~ related to the legal validity of the proposed regulation in any of the relevant respects outlined in ~~§ 9-6-14:17 2.2-4027~~ of this chapter.

General notice of ~~such~~ the proceedings shall be published as prescribed in ~~§ 9-6-14:7.4 2.2-4007~~. In addition, where the proposed regulation is to be addressed to named persons, the latter shall also be given the same notice individually by mail or otherwise if acknowledged in writing. The proceedings may be conducted separately from, and in any event the record thereof shall be separate from, any other or additional proceedings the agency may choose or be required to conduct for the reception of general data, views, and argument pursuant to ~~§ 9-6-14:7.4 2.2-4007~~ or otherwise. Any probative evidence may

1 be received except that the agency shall as a matter of efficiency exclude irrelevant, immaterial, insubstantial, privileged, or
2 repetitive proofs, and may in its discretion deny rebuttal, or cross-examination. Testimony may be admitted in written form
3 provided those who have prepared it are made available for examination in person. ~~There shall preside at the taking of such~~
4 ~~evidence the~~

5 The agency or one or more of its subordinates specially designated for the purpose, shall preside at the taking of
6 evidence and who may administer oaths and affirmations. The proceedings shall be recorded verbatim and the record thereof
7 shall be made available to interested persons for transcription at their expense or, if transcribed by or for the agency, for
8 inspection or purchase at cost.

9 Where subordinates preside at the ~~reception-taking~~ of the evidence, they shall ~~make a report with their~~
10 recommendations and proposed findings and conclusions ~~which that~~ shall be made available upon request to the participants
11 in the taking of evidence as well as other interested persons and serve as a basis for exceptions, briefs, or oral argument to
12 the agency itself. Whether or not subordinates take the evidence, after opportunity for the submittal of briefs on request and
13 such oral argument as may be scheduled in its discretion, the agency may settle the terms of the regulation and shall
14 promulgate it only upon (i) its findings of fact based upon the record of evidence made pursuant to this section and facts of
15 which judicial notice may be taken, (ii) statements of basis and purpose as well as comment upon data received in any
16 informational proceedings held under ~~§ 9-6.14.7.12.2-4007~~ and (iii) the ~~conclusion or~~ conclusions required by the terms of the
17 basic law under which the agency is operating.

18 **DRAFTING NOTE:** Technical corrections only.

19 ~~§ 9-6.14.8.1~~ 2.2-4010. Pilot programs for regulations imposing local government mandates.

20 Where an agency proposes to consider the exercise of authority to promulgate a regulation ~~which that~~ will impose a
21 statewide mandate on the Commonwealth's localities, the agency shall consider, where appropriate, implementing the
22 regulation on a limited basis with a representative number of localities. An agency may use such a pilot program to determine
23 the effectiveness or impact of proposed regulations prior to statewide adoption.

24 **DRAFTING NOTE:** Technical corrections only.

25 § 2.2-4011. Emergency regulations; publication; exceptions.

26 A. Regulations that an agency finds are necessitated by an emergency situation. For the purposes of this
27 subsection, "emergency situation" means a situation (i) involving an imminent threat to public health or safety or (ii) in which
28 Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 28
29 days or less from its enactment, and the regulation is not exempt under the provisions of subdivision A. 4. of § 2.2-4006. In
30 such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt
31 the regulations. Pursuant to § 2.2-4012 (9-6.14:9), such regulations shall become effective upon approval by the Governor
32 and filing with the Registrar of Regulations. The regulations shall be limited to no more than twelve months in duration. During
33 the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of
34 the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-
35 month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the
36 subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the
37 emergency regulation shall be promulgated in accordance with this article. The Notice of Intended Regulatory Action to
38 promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency
39 regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar
40 within 180 days after the effective date of the emergency regulation and published as soon as practicable.

41 B. Emergency regulations shall be published as soon as practicable in the Register.

42 C. The Regulations of the Marine Resources Commission shall be excluded from the provisions of this section.

43 **DRAFTING NOTE:** Technical corrections. This proposed section is from subdivision C 5 of existing § 9-6.14.4:1 and has
44 been moved here for more appropriate placement, since it deals with the process of adopting emergency regulations.
45 Subsection C of this proposed subsection is subsection C of existing § 9-6.14.4:1. Subsection B of this proposed section is
46 from the second paragraph in subsection B of existing § 9-6.14:9.

47 ~~§ 9-6.14:9~~ 2.2-4012. Purpose; adoption; effective date; filing; ~~emergency regulations;~~ duties of Registrar of
48 Regulations.

49 A. The purpose of the regulatory procedures ~~is shall be~~ to provide a regulatory plan ~~which that~~ is predictable, based
50 on measurable and anticipated outcomes, and is inclined toward conflict resolution.

51 B. Subject to the provisions of §§ ~~9-6.14:9.12.2-4013~~ and ~~9-6.14:9.2.2-4014~~, all regulations, including those ~~as to~~
52 ~~which that~~ agencies, pursuant to ~~§ 9-6.14:4.1.2.2-4002~~, ~~§ 2.2-4006~~, or ~~§ 2.2-4011~~, may elect to dispense with the public
53 procedures provided by §§ ~~9-6.14:7.12.2-4007~~ and ~~9-6.14:8.2.2-4009~~, may be formally and finally adopted by the signed
54 order of the agency so stating. No regulation except an emergency regulation shall be effective until the expiration of the
55 applicable period as provided in ~~§ 9-6.14:9.3.2.2-4015~~. In the case of an emergency regulation filed in accordance with

1 | ~~subdivision C 5 of § 9-6-14:4.1 2.2-4006~~, the regulation shall become ~~operative-effective~~ upon its adoption and filing with the
2 | Registrar of Regulations, unless a later date is specified. The originals of all regulations shall remain in the custody of the
3 | agency as public records subject to judicial notice by all courts and agencies. They, or facsimiles thereof, shall be made
4 | available ~~by the agency~~ for public inspection or copying. Full and true copies shall also be additionally filed, registered,
5 | published, or otherwise made publicly available as ~~may be~~ required by other laws.

6 | ~~Emergency regulations shall be published as soon as practicable in the Register.~~

7 | C. Prior to the publication for hearing of a proposed regulation, copies of the regulation and copies of the summary
8 | and statement as to the basis, purpose, substance, issues, and the economic impact estimate of the regulation submitted by
9 | the Department of Planning and Budget and the agency's response thereto as required by ~~§ 9-6-14:7.1 2.2-4007~~ shall be
10 | transmitted to the Registrar of Regulations, who shall retain these documents.

11 | D. All regulations adopted pursuant to this chapter shall contain a citation to the section of the Code of Virginia that
12 | authorizes or requires ~~such the~~ regulations and, where ~~such the~~ regulations ~~must are required to~~ conform to federal law or
13 | regulation in order to be valid, a citation to the specific federal law or regulation to which conformity is required.

14 | E. Immediately upon the adoption by any agency of any regulation in final form, a copy of (i) the regulation, (ii) a then
15 | current summary and statement as to the basis, purpose, substance, issues, and the economic impact estimate of the
16 | regulation submitted by the Department of Planning and Budget, and (iii) the agency's summary description of the nature of
17 | the oral and written data, views, or arguments presented during the public proceedings and the agency's comments thereon
18 | shall be transmitted to the Registrar of Regulations, who shall retain these documents as permanent records and make them
19 | available for public inspection. A draft of the agency's summary description of public comment shall be sent by the agency to
20 | all public commenters on the proposed regulation at least five days before final adoption of the regulation.

21 | **DRAFTING NOTE:** Technical corrections. The second paragraph of subsection B now appears as subsection B in proposed
22 | § 2.2-4011 supra.

23 | ~~§ 9-6-14:9.4 2.2-4013~~. Executive review of proposed and final regulations; changes with substantial impact.

24 | A. The Governor shall adopt and publish procedures by executive order for review of all proposed regulations
25 | governed by this chapter by June 30 of the year in which the Governor takes office. The procedures shall include (i) review by
26 | the Attorney General to ensure statutory authority for the proposed regulations; and (ii) examination by the Governor to
27 | determine if the proposed regulations are (a) necessary to protect the public health, safety and welfare; and (iii) ~~examination~~
28 | ~~by the Governor to determine if the proposed regulations are (b) clearly written and easily understandable.~~ The procedures
29 | may also include review of the proposed regulation by the appropriate Cabinet Secretary.

30 | The Governor shall transmit his comments, if any, on a proposed regulation to the Registrar and the agency no later
31 | than fifteen days following the completion of the public comment period provided for in ~~§ 9-6-14:7.1 2.2-4007~~. The Governor
32 | may recommend amendments or modifications to any regulation ~~which that~~ would bring that regulation into conformity with
33 | statutory authority or state or federal laws, regulations or judicial decisions.

34 | Not less than fifteen days following the completion of the public comment period provided for in ~~§ 9-6-14:7.1 2.2-~~
35 | ~~4007~~, the agency may (i) ~~may~~ adopt the proposed regulation if the Governor has no objection to the regulation; (ii) ~~may~~
36 | modify and adopt the proposed regulation after considering and incorporating the Governor's objections or suggestions, if
37 | any; or (iii) ~~may~~ adopt the regulation without changes despite the Governor's recommendations for change.

38 | B. Upon final adoption of the regulation, the agency shall forward a copy of the regulation to the Registrar of
39 | Regulations for publication as soon as practicable in the Register. All changes to the proposed regulation shall be highlighted
40 | in the final regulation, and substantial changes to the proposed regulation shall be explained in the final regulation.

41 | C. If the Governor finds that one or more changes with substantial impact have been made to the proposed
42 | regulation, he may require the agency to provide an additional thirty days to solicit additional public comment on the changes
43 | by transmitting notice of the additional public comment period to the agency and to the Registrar within the thirty-day adoption
44 | period described in subsection D, and publishing the notice in the Register. The additional public comment period required by
45 | the Governor shall begin upon publication of the notice in the Register.

46 | D. A thirty-day final adoption period for regulations shall commence upon the publication of the final regulation in the
47 | Register. The Governor may review the final regulation during this thirty-day final adoption period and if he objects to any
48 | portion or all of a regulation, the Governor may file a formal objection to the regulation, suspend the effective date of the
49 | regulation in accordance with subsection B of ~~§ 9-6-14:9.2 2.2-4014~~, or both.

50 | If the Governor files a formal objection to the regulation, he shall forward his objections to the Registrar and agency
51 | prior to the conclusion of the thirty-day final adoption period. The Governor shall be deemed to have acquiesced to a
52 | promulgated regulation if he fails to object to it or if he fails to suspend the effective date of the regulation in accordance with
53 | subsection B of ~~§ 9-6-14:9.2 2.2-4014~~ during the thirty-day final adoption period. The Governor's objection, or the suspension
54 | of the regulation, or both if applicable, shall be published in the Register.

55 | A regulation shall become effective as provided in ~~§ 9-6-14:9.3 2.2-4015~~.

56 | E. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

1 **DRAFTING NOTE:** Technical corrections only.

2 | ~~§ 0-6.14:9.2 2.2-4014.~~ Legislative review of proposed and final regulations; suspension with Governor's
3 concurrence.

4 | A. After the legislative members have received copies of the Register pursuant to ~~§ 0-6.14:24 2.2-4033,~~ the standing
5 committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly
6 referable may meet and, during the promulgation or final adoption process, file with the Registrar and the promulgating
7 agency an objection to a proposed or final adopted regulation. The Registrar shall publish any such objection received by
8 him as soon as practicable in the Register. Within twenty-one days after the receipt by the promulgating agency of a
9 legislative objection, that agency shall file a response with the Registrar, the objecting legislative committee and the
10 Governor. If a legislative objection is filed within the final adoption period, subdivision 1 of ~~§ 0-6.14:9.3 2.2-4015~~ shall govern.

11 | B. In addition, or as an alternative to, the provisions of subsection A, the standing committee of both houses of the
12 General Assembly to which matters relating to the content are most properly referable may suspend the effective date of any
13 portion or all of a final regulation with the Governor's concurrence. The Governor and the applicable standing committee of
14 each house may direct, through a statement signed by a majority of the members of the standing committee of each house
15 and by the Governor, that the effective date of a portion or all of the final regulation is suspended and shall not take effect
16 until the end of the next regular legislative session. This statement shall be transmitted to the promulgating agency and the
17 Registrar within the thirty-day adoption period, and shall be published in the Register.

18 | If a bill is passed at the next regular legislative session to nullify a portion but not all of the regulation, then the
19 promulgating agency (i) may promulgate the regulation under the provision of subdivision ~~C-4 A. 4. of § 0-6.14:4.4 2.2-4006,~~ if
20 it makes no changes to the regulation other than those required by statutory law, or (ii) shall follow the provisions of ~~§ 0-~~
21 ~~6.14:7.4 2.2-4007,~~ if it wishes to also make discretionary changes to the regulation. If a bill to nullify all or a portion of the
22 suspended regulation, or to modify the statutory authority for the regulation, is not passed at the next regular legislative
23 session, then the suspended regulation ~~will~~ shall become effective at the conclusion of the session, unless the suspended
24 regulation is withdrawn by the agency.

25 | C. A regulation shall become effective as provided in ~~§ 0-6.14:9.3 2.2-4015.~~

26 | D. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

27 **DRAFTING NOTE:** Technical corrections only.

28 | ~~§ 0-6.14:9.3 2.2-4015.~~ Effective date of regulation; exception.

29 | A. A regulation adopted in accordance with ~~the Administrative Process Act (§ 0-6.14:1 et seq.) this chapter~~ and the
30 Virginia Register Act (~~§ 0-6.15- 2.2-4100 et seq.~~), shall become effective at the conclusion of the thirty-day final adoption
31 period provided for in subsection D of ~~§ 0-6.14:9.4 2.2-4013,~~ or any other later date specified by the agency, unless:

32 | 1. A legislative objection has been filed in accordance with ~~§ 0-6.14:9.2 2.2-4014,~~ in which event the regulation,
33 unless withdrawn by the agency, shall become effective on a date specified by the agency ~~which that~~ shall be after the
34 expiration of the applicable twenty-one-day extension period provided in ~~§ 0-6.14:9.2 2.2-4014;~~

35 | 2. The Governor has exercised his authority in accordance with ~~§ 0-6.14:9.4 2.2-4013~~ to require the agency to
36 provide for additional public comment, in which event the regulation, unless withdrawn by the agency, shall become effective
37 on a date specified by the agency ~~which that~~ shall be after the period for which the Governor has provided for additional
38 public comment;

39 | 3. The Governor and the General Assembly have exercised their authority in accordance with subsection B of ~~§ 0-~~
40 ~~6.14:9.2 2.2-4014~~ to suspend the effective date of a regulation until the end of the next regular legislative session; or

41 | 4. The agency has suspended the regulatory process in accordance with subsection K of ~~§ 0-6.14:7.4 2.2-4007,~~ in
42 which event the regulation, unless withdrawn by the agency, shall become effective on the date specified by the agency
43 ~~which that~~ shall be after the thirty-day public comment period required by subsection K of ~~§ 0-6.14:7.4 2.2-4007.~~

44 | B. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

45 **DRAFTING NOTE:** Technical corrections only.

46 | ~~§ 0-6.14:9.4 2.2-4016.~~ Withdrawal of regulation.

47 | Nothing in this chapter shall prevent any agency from withdrawing any regulation at any time prior to the effective
48 date of that regulation. A regulation may be repealed after its effective date only in accordance with the provisions of this
49 chapter that govern the adoption of regulations.

50 **DRAFTING NOTE:** Technical corrections only.

51 | ~~§ 0-6.14:25 2.2-4017.~~ Periodic review of regulations.

52 | Each Governor shall mandate through executive order a procedure for periodic review during that Governor's
53 administration of regulations of agencies within the executive branch of state government. The procedure shall include: (i) a

2 review by the Attorney General to ensure statutory authority for regulations; and (ii) a determination by the Governor whether
3 the regulations are (a) necessary for the protection of public health, safety and welfare; and (iii) ~~a determination by the~~
4 ~~Governor whether the regulations are (b) clearly written and easily understandable.~~

5 The Governor may require each agency (i) to review all regulations promulgated by that agency to determine
6 whether new regulations should be adopted and old regulations amended or repealed, and (ii) to prepare a written report
7 summarizing the agency's findings about its regulations, its reasons for its findings and any proposed course of action.

7 **DRAFTING NOTE:** Technical corrections only.

8 Article 3.

9 Case Decisions.

10 § 2.2-4018. Exemptions from operation of Article 3.

11 The following agency actions otherwise subject to this chapter shall be exempted from the operation of this article.

12 1. The assessment of taxes or penalties and other rulings in individual cases in connection with the administration of
13 the tax laws.

14 2. The award or denial of claims for workers' compensation.

15 3. The grant or denial of public assistance.

16 4. Temporary injunctive or summary orders authorized by law.

17 5. The determination of claims for unemployment compensation or special unemployment.

18 6. The suspension of any license, certificate, registration or authority granted any person by the Department of
19 Health Professions or the Department of Professional and Occupational Regulation for the dishonor, by a bank or financial
20 institution named, of any check, money draft or similar instrument used in payment of a fee required by statute or regulation.

21 **DRAFTING NOTE:** Technical corrections. This proposed section is derived from subsection D of existing § 9-6.14.4:1.

22 § ~~9-6.14.14~~ 2.2-4019. Informal fact finding proceedings.

23 A. Agencies shall ascertain the fact basis for their decisions of cases through informal conference or consultation
24 proceedings unless the named party and the agency consent to waive such a conference or proceeding to go directly to a
25 formal hearing. Such conference-consultation procedures shall include rights of parties to the case to (i) ~~to~~ have reasonable
26 notice thereof, (ii) ~~to~~ appear in person or by counsel or other qualified representative before the agency or its subordinates, or
27 before a hearing officer ~~as provided by subsection A of § 9-6.14:14.1,~~ for the informal presentation of factual data, argument,
28 or proof in connection with any case, (iii) ~~to~~ have notice of any contrary fact basis or information in the possession of the
29 agency ~~which that~~ can be relied upon in making an adverse decision, (iv) ~~to~~ receive a prompt decision of any application for a
30 license, benefit, or renewal thereof, and (v) ~~to~~ be informed, briefly and generally in writing, of the factual or procedural basis
31 for an adverse decision in any case.

32 B. Agencies may, in their case decisions, rely upon public data, documents or information only when the agencies
33 have provided all parties with advance notice of an intent to consider such public data, documents or information. This
34 requirement shall not apply to an agency's reliance on case law and administrative precedent.

35 ~~C. In cases where a board or commission meets to render an informal fact finding decision and information from a~~
36 ~~prior proceeding is being considered, persons who participated in the prior proceeding shall be provided an opportunity to~~
37 ~~respond at the board or commission meeting to any summaries of the prior proceeding prepared by or for the board or~~
38 ~~commission.~~

39 ~~D. In any informal fact finding proceeding in which a hearing officer, as described in § 9-6.14:14.1, is not used or is~~
40 ~~not empowered to recommend a finding, the board, commission, or agency personnel responsible for rendering a decision~~
41 ~~shall render that decision within ninety days from the date of the informal fact finding proceeding or from a later date agreed~~
42 ~~to by the named party and the agency. If the agency does not render a decision within ninety days, the named party to the~~
43 ~~case decision may provide written notice to the agency that a decision is due. If no decision is made within thirty days from~~
44 ~~agency receipt of the notice, the decision is deemed to be in favor of the named party. The preceding sentence shall not~~
45 ~~apply to case decisions before (i) the State Water Control Board or the Department of Environmental Quality to the extent~~
46 ~~necessary to comply with the federal Clean Water Act or (ii) the State Air Pollution Control Board or the Department of~~
47 ~~Environmental Quality to the extent necessary to comply with the federal Clean Air Act. An agency shall provide notification to~~
48 ~~the named party of its decision within five days of the decision.~~

49 ~~E. In any informal fact finding proceeding in which a hearing officer, as described in § 9-6.14:14.1, is empowered to~~
50 ~~recommend a finding, the board, commission, or agency personnel responsible for rendering a decision shall render that~~
51 ~~decision within thirty days from the date that the agency receives the hearing officer's recommendation. If the agency does~~
52 ~~not render a decision within thirty days, the named party to the case decision may provide written notice to the agency that a~~
53 ~~decision is due. If no decision is made within thirty days from agency receipt of the notice, the decision is deemed to be in~~
54 ~~favor of the named party. The preceding sentence shall not apply to case decisions before (i) the State Water Control Board~~

1 or the Department of Environmental Quality to the extent necessary to comply with the federal Clean Water Act or (ii) ~~the~~
2 State Air Pollution Control Board or the Department of Environmental Quality to the extent necessary to comply with ~~the~~
3 federal Clean Air Act. An agency shall provide notification to the named party of its decision within five days of the decision.

4 ~~F. The provisions of subsection D notwithstanding, if the board members or agency personnel who conducted the~~
5 ~~informal proceeding are unable to attend to official duties due to sickness, disability, or termination of their official capacity~~
6 ~~with the agency, then the timeframe provisions of subsection D shall be reset and commence from the date that either new~~
7 ~~board members or agency personnel are assigned to the matter or a new proceeding is conducted if needed, whichever is~~
8 ~~later. An agency shall provide notification within five days to the named party of any incapacity of the board members or~~
9 ~~agency personnel that necessitates a replacement or a new proceeding.~~

10 **DRAFTING NOTE:** Technical corrections. Subsections C through F, shown here as stricken now appear as proposed § 2.2-
11 4021, Timetable for decisions infra.

12 ~~§ 0-6.14:12 2.2-4020. Litigated- Formal hearings; litigated issues.~~

13 A. The agency shall afford opportunity for the formal taking of evidence upon relevant fact issues in any case in
14 which the basic laws provide expressly for decisions upon or after hearing and may do so in any case to the extent that
15 informal procedures under ~~§ 0-6.14:11 2.2-4019~~ have not been had or have failed to dispose of a case by consent.

16 B. Parties to ~~such~~ formal proceedings shall be given reasonable notice of ~~the~~ (i) ~~the~~ time, place, and nature thereof,
17 (ii) ~~the~~ basic law or laws under which the agency contemplates its possible exercise of authority, and (iii) ~~the~~ matters of fact
18 and law asserted or questioned by the agency. Applicants for licenses, rights, benefits, or renewals thereof have the burden
19 of approaching the agency concerned without such prior notice but they shall be similarly informed thereafter in the further
20 course of the proceedings whether pursuant to this section or to ~~§ 0-6.14:11 2.2-4019~~.

21 C. In all such formal proceedings the parties shall be entitled to be accompanied by and represented by counsel, to
22 submit oral and documentary evidence and rebuttal proofs, to conduct such cross-examination as may elicit a full and fair
23 disclosure of the facts, and to have the proceedings completed and a decision made with dispatch. The burden of proof shall
24 be upon the proponent or applicant. The presiding officers at ~~such the~~ proceedings ~~are empowered to~~ may (i) administer
25 oaths and affirmations, (ii) receive probative evidence, exclude irrelevant, immaterial, insubstantial, privileged, or repetitive
26 proofs, rebuttal, or cross-examination, rule upon offers of proof, and oversee ~~an accurate a~~ verbatim recording of the
27 evidence, (iii) hold conferences for the settlement or simplification of issues by consent, (iv) dispose of procedural requests,
28 and (v) regulate and expedite the course of the hearing. Where a hearing officer presides, or where a subordinate designat
29 for that purpose presides in hearings specified in subsection F of ~~§ 0-6.14:14.1 2.2-4024~~, he shall recommend findings and
30 decision unless the agency shall by its procedural regulations provide for the making of findings and an initial decision by
31 ~~such the~~ presiding officers subject to review and reconsideration by the agency on appeal to it as of right or on its own
32 motion. The agency shall give deference to findings by the presiding officer explicitly based on the demeanor of witnesses.

33 D. Prior to the recommendations or decisions of subordinates, the parties concerned shall be given opportunity, on
34 request, to submit in writing for the record (i) proposed findings and conclusions and (ii) statements of reasons therefor. In all
35 cases, on request, opportunity shall be afforded for oral argument (i) to hearing officers or subordinate presiding officers, as
36 the case may be, in all cases in which they make such recommendations or decisions or (ii) to the agency in cases in which it
37 makes the original decision without such prior recommendation and otherwise as it may permit in its discretion or provide by
38 general rule. Where hearing officers or subordinate presiding officers, as the case may be, make recommendations or
39 decisions, the agency shall receive and act on exceptions thereto.

40 E. All decisions or recommended decisions shall be served upon the parties, become a part of the record, and briefly
41 state or recommend the findings, conclusions, reasons, or basis therefor upon the evidence presented by the record and
42 relevant to the basic law under which the agency is operating together with the appropriate order, license, grant of benefits,
43 sanction, relief, or denial thereof.

44 ~~F. In cases where a board or commission meets to render a decision on a litigated issue and information from a prior~~
45 ~~proceeding is being considered, persons who participated in the prior proceeding shall be provided an opportunity to respond~~
46 ~~at the board or commission meeting to any summaries of the prior proceeding prepared by or for the board or commission.~~

47 ~~G. In any formal proceeding in which a hearing officer, as described in § 0-6.14:14.1, is not used or is not~~
48 ~~empowered by the agency to recommend a finding, the board, commission, or agency personnel responsible for rendering a~~
49 ~~decision shall render that decision within ninety days from the date of the formal proceeding or from a later date agreed to by~~
50 ~~the named party and the agency. If the agency does not render a decision within ninety days, the named party to the case~~
51 ~~decision may provide written notice to the agency that a decision is due. If no decision is made within thirty days from agency~~
52 ~~receipt of the notice, then the decision is deemed to be in favor of the named party. The proceeding sentence shall not apply to~~
53 ~~case decisions before (i) the State Water Control Board or the Department of Environmental Quality to the extent necessary~~
54 ~~to comply with the federal Clean Water Act or (ii) the State Air Pollution Control Board or the Department of Environmental~~
55 ~~Quality to the extent necessary to comply with the federal Clean Air Act. An agency shall provide notification to the named~~
56 ~~party of its decision within five days of the decision.~~

57 ~~H. In any formal proceeding in which a hearing officer, as described in § 0-6.14:14.1, is empowered to recommen~~
58 ~~finding, the board, commission, or agency personnel responsible for rendering a decision shall render that decision with.~~

1 ~~thirty days from the date that the agency receives the hearing officer's recommendation. If the agency does not render a~~
2 ~~decision within thirty days, the named party to the case decision may provide written notice to the agency that a decision is~~
3 ~~due. If no decision is made within thirty days from agency receipt of the notice, the decision is deemed to be in favor of the~~
4 ~~named party. The preceding sentence shall not apply to case decisions before (i) the State Water Control Board or the~~
5 ~~Department of Environmental Quality to the extent necessary to comply with the federal Clean Water Act or (ii) the State Air~~
6 ~~Pollution Control Board or the Department of Environmental Quality to the extent necessary to comply with the federal Clean~~
7 ~~Air Act. An agency shall provide notification to the named party of its decision within five days of the decision.~~

8 ~~I. The provisions of subsection G notwithstanding, if the board members or agency personnel who conducted the~~
9 ~~formal proceeding are unable to attend to official duties due to sickness, disability, or termination of their official capacity with~~
10 ~~the agency, then the timeframe provisions of subsection G shall be reset and commence from the date that either new board~~
11 ~~members or agency personnel are assigned to the matter or a new proceeding is conducted if needed, whichever is later. An~~
12 ~~agency shall provide notification within five days to the named party of any incapacity of the board members or agency~~
13 ~~personnel that necessitates a replacement or a new proceeding.~~

14 **DRAFTING NOTE:** Technical corrections. Subsections F through I, shown as stricken here, now appear in proposed § 2.2-
15 4021, Timetable for decisions infra.

16 § 2.2-4021. Timetable for decision; exemptions.

17 A. In cases where a board or commission meets to render (i) an informal fact-finding decision or (ii) a decision on a
18 litigated issue, and information from a prior proceeding is being considered, persons who participated in the prior proceeding
19 shall be provided an opportunity to respond at the board or commission meeting to any summaries of the prior proceeding
20 prepared by or for the board or commission.

21 B. In any informal fact-finding or formal proceeding in which a hearing officer is not used or is not empowered to
22 recommend a finding, the board, commission, or agency personnel responsible for rendering a decision shall render that
23 decision within ninety days from the date of the informal fact-finding or formal proceeding or from a later date agreed to by the
24 named party and the agency. If the agency does not render a decision within ninety days, the named party to the case
25 decision may provide written notice to the agency that a decision is due. If no decision is made within thirty days from agency
26 receipt of the notice, the decision shall be deemed to be in favor of the named party. The preceding sentence shall not apply
27 to case decisions before (i) the State Water Control Board or the Department of Environmental Quality to the extent
28 necessary to comply with the federal Clean Water Act or (ii) the State Air Pollution Control Board or the Department of
29 Environmental Quality to the extent necessary to comply with the federal Clean Air Act. An agency shall provide notification to
30 the named party of its decision within five days of the decision. —

31 C. In any informal fact-finding or formal proceeding in which a hearing officer is empowered to recommend a finding,
32 the board, commission, or agency personnel responsible for rendering a decision shall render that decision within thirty days
33 from the date that the agency receives the hearing officer's recommendation. If the agency does not render a decision within
34 thirty days, the named party to the case decision may provide written notice to the agency that a decision is due. If no
35 decision is made within thirty days from agency receipt of the notice, the decision is deemed to be in favor of the named
36 party. The preceding sentence shall not apply to case decisions before (i) the State Water Control Board or the Department of
37 Environmental Quality to the extent necessary to comply with the federal Clean Water Act or (ii) the State Air Pollution Control
38 Board or the Department of Environmental Quality to the extent necessary to comply with the federal Clean Air Act. An
39 agency shall provide notice to the named party of its decision within five days of the decision.

40 D. The provisions of subsection B notwithstanding, if the board members or agency personnel who conducted the
41 informal fact-finding or formal proceeding are unable to attend to official duties due to sickness, disability, or termination of
42 their official capacity with the agency, then the timeframe provisions of subsection B shall be reset and commence from the
43 date that either new board members or agency personnel are assigned to the matter or a new proceeding is conducted if
44 needed, whichever is later. An agency shall provide notice within five days to the named party of any incapacity of the board
45 members or agency personnel that necessitates a replacement or a new proceeding.

46 **DRAFTING NOTE:** Technical corrections. This proposed section represents a consolidation of the same provisions found in
47 subsections C through F in existing §§ 9-6.14:11 and subsection F through I of § 9-6.14:12 relating to the timetable for case
48 decisions. This proposed consolidation will eliminate repetitive language.

49 ~~§ 9-6.14:13~~ 2.2-4022. Subpoenas, depositions and requests for admissions.

50 The agency or its designated subordinates shall have power to may, and on request of any party to a case shall,
51 issue subpoenas requiring testimony or the production of books, papers, and physical or other evidence. Any person so
52 subpoenaed who objects may, if the agency does not quash or modify the subpoena at his timely request as illegally or
53 improvidently granted, immediately ~~thereupon~~ procure by petition a decision on the validity thereof in the circuit court as
54 provided in ~~§ 9-6.14:5~~ 2.2-4003; and otherwise in any case of refusal or neglect to comply with an agency subpoena, unless
55 the basic law under which the agency is operating provides some other recourse, enforcement, or penalty, the agency may
56 procure an order of enforcement from such court. Depositions de bene esse and requests for admissions may be directed,

1 issued, and taken on order of the agency for good cause shown; and orders or authorizations therefor may be challenged or
2 enforced in the same manner as subpoenas. Nothing in this section shall be taken to authorize discovery proceedings.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 9-6-14:14~~ 2.2-4023. Final orders.

5 The terms of any final agency case decision, as signed by it, shall be served upon the ~~private-named~~ parties by mail
6 unless service otherwise made is duly acknowledged by them in writing. The signed originals shall remain in the custody of
7 the agency as public records subject to judicial notice by all courts and agencies; and they, or facsimiles thereof, together
8 with the full record or file in every case shall be made available ~~by the agency~~ for public inspection or copying except (i) so far
9 as the agency may, ~~in the exercise of sound discretion~~, withhold the same in whole or part for the purpose of protecting
10 individuals mentioned from personal embarrassment, obloquy, or disclosures of a private nature including statements
11 respecting the physical, mental, moral, or financial condition of such individuals or (ii) for trade secrets or, so far as protected
12 by other laws, other commercial or industrial information imparted in confidence.

13 **DRAFTING NOTE:** Technical corrections. The term "private parties" has been changed to "named parties" to be consistent
14 with the use of the latter term in this chapter.

15 Article 4.

16 Hearing Officers.

17 ~~§ 9-6-14:14.1~~ 2.2-4024. Hearing officers.

18 A. In all formal hearings conducted in accordance with ~~§ 9-6-14:12~~ 2.2-4020, the hearing shall be presided over by a
19 hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained in the Office of
20 the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings conducted pursuant to ~~§ 9-6-14:14~~
21 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside at the proceeding, such agreement to be
22 revoked only by mutual consent. The Executive Secretary ~~shall have the power to~~ may promulgate rules necessary for the
23 administration of the hearing officer system.

24 ~~All~~ Prior to being included on the list, all hearing officers shall meet the following minimum standards:

- 25 1. Active membership in good standing in the Virginia State Bar;
26 2. Active practice of law for at least five years; and

27 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order to comply
28 with the demonstrated requirements of the agency requesting a hearing officer, the Executive Secretary may require
29 additional training before a hearing officer ~~will~~ shall be assigned to a proceeding before that agency.

30 ~~These requirements must be met prior to being included on the list of hearing officers. All attorneys on the list as of~~
31 ~~July 1, 1986, shall satisfy these requirements by January 1, 1987, to remain on the list.~~

32 B. On request from the head of an agency, the Executive Secretary ~~will~~ shall name a hearing officer from the list,
33 selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic preference and
34 specialized training or knowledge shall be maintained by the Executive Secretary if an agency demonstrates the need.

35 C. A hearing officer shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair
36 and impartial hearing or consideration, or when required by the applicable rules governing the practice of law in the
37 Commonwealth. Any party may request the disqualification of a hearing officer by filing an affidavit, prior to the taking of
38 evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot
39 be accorded, or the applicable rule of practice requiring disqualification.

40 The issue shall be determined not less than ten days prior to the hearing by the Executive Secretary of the Supreme
41 Court.

42 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case decision
43 matter shall render that recommendation or conclusion within ninety days from the date of the case decision proceeding or
44 from a later date agreed to by the named party and the agency. If the hearing officer does not render a decision within ninety
45 days, then the named party to the case decision may provide written notice to the hearing officer and the Executive Secretary
46 of the Supreme Court that a decision is due. If no decision is made within thirty days from receipt by the hearing officer of the
47 notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer from the hearing officer list and
48 report the hearing officer to the Virginia State Bar for possible disciplinary action, unless good cause is shown for the delay.

49 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after written notice
50 ~~in writing and an opportunity for a hearing~~. When there is a failure by a hearing officer to render a decision as required by
51 subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions to remove a hearing
52 officer may be reviewed by a request to the Executive Secretary for reconsideration, followed by judicial review in accordance
53 ~~with the Administrative Process Act (§ 9-6-14:1 et seq.)~~ this chapter.

2 F. This section shall not apply to hearings conducted by (i) any commission or board where all of the members, or a
3 quorum, are present; (ii) the Alcoholic Beverage Control Board, the Virginia Workers' Compensation Commission, the State
4 Corporation Commission, the Virginia Employment Commission, ~~the Virginia Student Assistance Authorities, the Department~~
5 of Motor Vehicles under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the
6 Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board
7 convened pursuant to § 54.1-2400. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 ~~(formerly §§~~
8 ~~65.1-11 and 65.1-12)~~ by the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall
9 meet the minimum qualifications set forth in subsection A of this section. Agency employees who are not licensed to practice
10 law in ~~this the~~ Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) above, shall
11 participate in periodic training courses.

12 G. Notwithstanding the exemptions of subsection A of ~~§ 9-6.14:4.4 2.2-4002~~, this article shall apply to hearing
13 officers conducting hearings of the kind described in ~~§ 9-6.14:4.2 2.2-4020~~ for the Department of Game and Inland Fisheries,
14 the Virginia Housing Development Authority, the Milk Commission and the Virginia Resources Authority pursuant to their
15 basic laws.

16 **DRAFTING NOTE:** Technical corrections only. The reference to the Virginia Student Assistance Authorities has been
17 deleted as obsolete. It was repealed by Chapter 39 of the 1998 Acts of Assembly.

18 Article 5.

19 Court Review.

20 ~~§ 9-6.14:15 2.2-4025. Exclusion Exemptions operation of this article; limitations.~~

21 A. This article ~~does shall~~ not apply to any agency action ~~which that~~ (i) is placed beyond the control of the courts by
22 constitutional or statutory provisions expressly precluding court review, (ii) involves solely the internal management or routine
23 of an agency, (iii) is a decision resting entirely upon an inspection, test, or election save as to want of authority therefor or
24 claim of arbitrariness or fraud therein, (iv) is a case in which the agency is acting as an agent for a court, or (v) encompasses
25 matters subject by law to a trial de novo in any court.

B. Appeals from decisions of the Governor's Employment and Training Department otherwise subject to this chapter
shall be exempted from the operation of this article.

26 C. The provisions of this article, however, shall apply to case decisions regarding the grant or denial of aid to
27 dependent children, Medicaid, food stamps, general relief, auxiliary grants, or state-local hospitalization. However, no appeal
28 may be brought regarding the adequacy of standards of need and payment levels for public assistance programs.
29 Notwithstanding the provisions of § 2.2-4027, the review shall be based solely upon the agency record, and the court shall be
30 limited to ascertaining whether there was evidence in the agency record to support the case decision of the agency acting as
31 the trier of fact. If the court finds in favor of the party complaining of agency action, the court shall remand the case to the
32 agency for further proceedings. The validity of any statute, regulation, standard or policy, federal or state, upon which the
33 action of the agency was based shall not be subject to review by the court. No intermediate relief shall be granted under §
34 2.2-4028.
35

36 **DRAFTING NOTE:** This proposed section is comprised of the following existing sections: subsection A is § 9-6.14:15 and
37 subsection B is subsection E of § 9-6.14:4.1 and subsection C is subsection B of 9-6.14:16.

38 ~~§ 9-6.14:16 2.2-4026. Right, forms, venue.~~

39 A. Any person affected by and claiming the unlawfulness of any regulation, or party aggrieved by and claiming
40 unlawfulness of a case decision, ~~as the same are defined in § 9-6.14:4 of this chapter and whether or not excluded-exempted~~
41 from the procedural requirements of Article 2 (~~§ 9-6.14:7.4 2.2-4006 et seq.~~) or 3 (~~§ 9-6.14:14 2.2-4018 et seq.~~) ~~hereof~~
42 this chapter, shall have a right to the direct review thereof by an appropriate and timely court action against the agency as
43 such or its officers or agents in the manner provided by the rules of the Supreme Court of Virginia. ~~Such actions~~ Actions may
44 be instituted in any court of competent jurisdiction as provided in ~~§ 9-6.14:5 2.2-4003~~, and the judgments of ~~such the~~ courts of
45 original jurisdiction shall be subject to appeal to or review by higher courts as in other cases unless otherwise provided by
46 law. In addition, when any ~~such~~ regulation or case decision is the subject of an enforcement action in court, ~~the same it~~ shall
47 also be reviewable by the court as a defense to the action, and the judgment or decree therein shall be appealable as in other
48 cases.

49 B. ~~The provisions of this article shall apply to case decisions regarding the grant or denial of aid to dependent~~
50 children, Medicaid, food stamps, general relief, auxiliary grants, or state-local hospitalization. However, no appeal pursuant to
51 this article may be brought regarding the adequacy of standards of need and payment levels for public assistance programs.
52 Notwithstanding the provisions of ~~§ 9-6.14:17~~, ~~such~~ review shall be based solely upon the agency record, and the court shall
53 be limited to ascertaining whether there was evidence in the agency record to support the case decision of the agency acting
as the trier of fact. If the court finds in favor of the party complaining of agency action, the court shall remand the case to the
agency for further proceedings. The validity of any statute, regulation, standard or policy, federal or state, upon which the

1 ~~action of the agency was based shall not be subject to review by the court. No intermediate relief shall be granted under §~~
2 ~~6-14-18.~~

3 **DRAFTING NOTE:** Technical corrections. Subsection B now appears as subsection B in proposed § 2.2-4025 supra.

4 ~~§-6-14-17~~ 2.2-4027. Issues on review.

5 The burden shall be upon the party complaining of agency action to designate and demonstrate an error of law
6 subject to review by the court. Such issues of law include: (i) accordance with constitutional right, power, privilege, or
7 immunity, (ii) compliance with statutory authority, jurisdiction limitations, or right as provided in the basic laws as to subject
8 matter, the stated objectives for which regulations may be made, and the factual showing respecting violations or entitlement
9 in connection with case decisions, (iii) observance of required procedure where any failure therein is not mere harmless error,
10 and (iv) the substantiality of the ~~evidentiary~~ evidentiary support for findings of fact. The determination of such fact issue ~~is to~~
11 shall be made upon the whole ~~evidentiary~~ evidentiary record provided by the agency if its proceeding was required to be
12 conducted as provided in ~~§-6-14-8~~ 2.2-4009 or ~~§-6-14-12~~ 2.2-4020 of this chapter or, as to subjects exempted from those
13 sections, pursuant to constitutional requirement or statutory provisions for opportunity for an agency record of and decision
14 upon the evidence therein.

15 When the decision on review is ~~to~~ be made on ~~such the~~ agency record, the duty of the court with respect to
16 issues of fact ~~is shall be~~ limited to ascertaining whether there was substantial evidence in the agency record upon which the
17 agency as the trier of the facts could reasonably find them to be as it did.

18 Where there is no ~~such~~ agency record so required and made, any necessary facts in controversy shall be
19 determined by the court upon the basis of the agency file, minutes, and records of its proceedings under ~~§-6-14-7.4~~ 2.2-
20 4007 or ~~§-6-14-14~~ 2.2-4019 as augmented, if need be, by the agency pursuant to order of the court or supplemented by any
21 allowable and necessary proofs adduced in court except that the function of the court shall be to determine only whether the
22 result reached by the agency could reasonably be said, on all such proofs, to be within the scope of the legal authority of the
23 agency.

24 Whether ~~such the~~ fact issues are reviewed on the agency record or one made in the review action, the court shall
25 take due account of the presumption of official regularity, the experience and specialized competence of the agency, and the
26 purposes of the basic law under which the agency has acted.

27 **DRAFTING NOTE:** Technical corrections only.

28 ~~§-6-14-18~~ 2.2-4028. Intermediate relief.

29 When judicial review is instituted or is about to be, the agency concerned may, on request of any party or its own
30 motion, postpone the effective date of the regulation or decision involved where it deems that justice so requires. Otherwise
31 the court may, on proper application and with or without bond, deposits in court, or other safeguards or assurances as may be
32 suitable, issue all necessary and appropriate process to postpone ~~such the~~ effective dates or preserve existing status or
33 rights pending conclusion of the review proceedings if the court finds the same to be required to prevent immediate,
34 unavoidable, and irreparable injury and that the issues of law or fact presented are not only substantial but that there is
35 probable cause for it to anticipate a likelihood of reversible error in accordance with ~~§-6-14-17~~ 2.2-4027. ~~Such action~~
36 Actions by the court may include (i) the stay of operation of agency decisions of an injunctive nature or those requiring the
37 payment of money or suspending or revoking a license or other benefit and (ii) continuation of previous licenses in effect until
38 timely applications for renewal are duly determined by the agency.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§-6-14-19~~ 2.2-4029. Court judgments.

41 Unless an error of law as defined in ~~§-6-14-17~~ 2.2-4027 appears, the court shall dismiss the review action or affirm
42 the agency regulation or decision. Otherwise, it may compel agency action unlawfully and arbitrarily withheld or unreasonably
43 delayed except that the court shall not itself undertake to supply agency action committed by the basic law to the agency.
44 Where a regulation or case decision is found by the court not to be ~~not~~ in accordance with law under ~~§-6-14-17~~ 2.2-4027,
45 the court shall suspend or set it aside and remand the matter to the agency for ~~such~~ further proceedings, if any, as the court
46 may permit or direct in accordance with law.

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§-6-14-21~~ 2.2-4030. Recovery of costs and attorneys' fees from agency.

49 A. In any civil case brought under Article 4-5 (~~§-6-14-15~~ 2.2-4025 et seq.) of this chapter and ~~§-6-14-4.4~~ or ~~§ 2.2-~~
50 ~~4002, § 2.2-4006, § 2.2-4011, or § 2.2-4018~~, in which any person contests any agency action, ~~as defined in §-6-14-4~~, such
51 person shall be entitled to recover from that agency, ~~as defined in the section referred to above~~ and including the Department
52 of Game and Inland Fisheries, reasonable costs and ~~attorney~~ attorneys' fees if such person substantially prevails on the
53 merits of the case and the agency's position is not substantially justified, unless special circumstances would make an award
54 unjust. The award of attorneys' fees shall not exceed \$25,000.

1 B. Nothing in this section shall be deemed to grant permission to bring an action against an agency if ~~such the~~
2 agency would otherwise be immune from suit, or to grant a right to bring an action by a person who would otherwise lack
3 standing to bring the action.

4 C. Any costs and ~~attorney-attorneys'~~ fees assessed against an agency under this section shall be charged against
5 the operating expenses of the agency for the fiscal year in which the assessment is made, and shall not be reimbursed from
6 any other source.

7 **DRAFTING NOTE:** Technical corrections only.

8 Article 6.

9 Virginia Register of Regulations.

10 ~~§ 9-6.14:22~~ 2.2-4031. Publication of Virginia Register of Regulations; exceptions; notice of meetings of executive
11 branch agencies.

12 A. The Registrar shall publish every two weeks a Virginia Register of Regulations ~~which that~~ shall include (i)
13 proposed and final regulations; (ii) emergency regulations; (iii) executive orders; (iv) notices of all public meetings and public
14 hearings of state agencies, legislative committees and study subcommittees; and (v) tax bulletins. The entire proposed
15 regulation shall be published in the Register; however, if an ~~administrative code has been published pursuant to § 9-77.7,~~
16 ~~only those sections of regulations amended need be published in the Register.~~ an existing regulation has been previously
17 published in the Virginia Administrative Code, then only those sections of regulations to be amended need to be published in
18 the Register. If the length of the regulation falls within the guidelines established by the Registrar for the publication of a
19 summary in lieu of the full text of the regulation, then, after consultation with the promulgating agency, the Registrar may print
20 only the summary of the regulation. In this event, the full text of the regulation shall be available for public inspection at the
21 office of the Registrar and the promulgating agency.

22 If a proposed regulation is adopted as published or, in the sole discretion of the Registrar of Regulations, the only
23 changes that have been made are those that can be clearly and concisely explained, the adopted regulation need not be
24 published at length. Instead, the Register shall contain a notation that the proposed regulation has been adopted as
25 published as a proposed regulation without change or stating the changes made. The proposed regulation ~~must~~ shall be
26 clearly identified with a citation to the issue and page numbers where published.

27 A copy of all reporting forms the promulgating agency anticipates will be incorporated into or be used in
28 administering the regulation shall be printed with the proposed and final regulation in the Register.

29 B. Each regulation shall be prefaced with a summary explaining that regulation in plain and clear language.
30 Summaries shall be prepared by the promulgating agency and approved by the Registrar prior to their publication in the
31 Register. The notice required by ~~§ 9-6.14:7.4~~ 2.2-4007 shall include (i) a statement of the date, time and place of the hearing
32 at which the regulation is to be considered; (ii) a brief statement as to the regulation under consideration; (iii) reference to the
33 legal authority of the agency to act; and (iv) the name, address and telephone number of an individual to contact for further
34 information about that regulation. Agencies shall present their proposed regulations in a standardized format developed by
35 the Virginia Code Commission in accordance with subdivision 1 of § 9-6.20 (b) 2.2-4104 of the Virginia Register Act (~~§ 9-6.15~~
36 2.2-4100 et seq.). Notwithstanding the exemptions ~~of allowed under § 9-6.14:4.4 2.2-4002, § 2.2-4006 or § 2.2-4011,~~
37 the proposed and final regulations of all agencies shall be published in the Register; ~~however,~~ However, proposed regulations of
38 the Marine Resources Commission and regulations exempted by subject from the provisions of this chapter by subsection B
39 of ~~§ 9-6.14:4.12.2-4006~~ shall ~~continue to be~~ exempt from this section.

40 C. Notwithstanding the definition of "agency," ~~as provided in § 9-6.14:4 of this chapter,~~ notices for all meetings of
41 state agencies required to be ~~public open~~ pursuant to the Virginia Freedom of Information Act (~~§ 2-1-340~~ 2.2-3700 et seq.),
42 except for legislative meetings held during regular and special sessions, shall be published in the Register. Each notice shall
43 include (i) the date, time and place of the meeting; (ii) a brief general description of the nature of the meeting and the
44 business to be conducted; and (iii) the name, address and telephone number of an individual who may be contacted for
45 additional information about the meeting. Failure to publish in the Register the notice for such a meeting or any inadequacies
46 in the information contained in ~~such the~~ notice shall not affect the legality of actions taken at that meeting.

47 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised existing § 9-6.14:22.

48 ~~§ 9-6.14:23~~ 2.2-4032. Subscriber fees.

49 The Virginia Register of Regulations shall be sold to subscribers at a subscription fee to be determined by the
50 Virginia Code Commission.

51 It is the intent of this section that the subscription fees maximize the recovery to the Commonwealth for printing and
52 distribution costs of the Virginia Register.

53 **DRAFTING NOTE:** Technical corrections only.

1 ~~§-9-6-14-24 2.2-4033.~~ Distribution to library systems, Governor, Lieutenant Governor, Attorney General and
2 legislative members.

3 The Register shall be distributed without charge ~~for public access to (i) each public library system in the~~
4 Commonwealth or to the local governing body of any county without a public library system. ~~The for public access and (ii) the~~
5 Governor and the Lieutenant ~~Governor~~ Governor shall also receive a gratuitous copy of the Register.

6 Upon request, the Register shall ~~be distributed without charge to (i) be distributed without charge to members of the~~
7 Virginia Code Commission, (ii) ~~be distributed without charge to each division of the Office of the Attorney General, and (iii) be~~
8 distributed to members currently serving in the General Assembly.

9 Moneys from the contingent fund of the appropriate house of the General Assembly shall be used to acquire and
10 distribute the Register to each legislative member who requests the Register.

11 **DRAFTING NOTE:** Technical corrections only.

12 CHAPTER 41.

13 VIRGINIA REGISTER ACT.

14 §-9-6-15 2.2-4100. Purpose-Short title; purpose of chapter; declaration of policy.

15 A. This chapter shall be known and may be cited as the "Virginia Register Act."

16 B. It is the purpose of this chapter to satisfy the need for public availability of information respecting the regulations
17 of state agencies. Nothing in this chapter contemplates or is designed to limit or impede the present or future making,
18 amendment, or repeal of regulations by administrative agencies; ~~and it is hereby declared to be the policy of the~~
19 Commonwealth to encourage, facilitate, and assist agencies in developing regulations ~~which that~~ will inform the public of the
20 requirements, policies, and procedures of the administrative authorities of the State.

21 **DRAFTING NOTE:** Technical corrections only. Subsection A comes from § 9-6.22.

22 §-9-6-16 2.2-4101. Definitions.

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

24 "Agency" means any authority, instrumentality, officer, board, or other unit of the government of the Commonwealth
25 with express or implied authority to issue regulations other than the General Assembly, courts, municipal corporations,
26 counties, other local or regional governmental authorities including sanitary or other districts and joint state-federal, interstate
27 or intermunicipal authorities, the Virginia Resources Authority, the Virginia Code Commission with respect to minor changes
28 made under the provisions of §-9-77-10-1 30-150, and educational institutions operated by the Commonwealth with respect to
29 regulations ~~which that~~ pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and
30 employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.

31 "Virginia Administrative Code" means the codified publication of regulations under the provisions of Chapter-8-4 15
32 (§-9-77-4 30-145 et seq.) of Title-9 30.

33 "Commission" means the Virginia Code Commission.

34 "Guidance document" means any document developed by a state agency or staff that provides information or
35 guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations,
36 excluding agency minutes or documents that pertain only to the internal management of agencies. Nothing in this definition
37 shall be construed or interpreted to expand the identification or release of any document otherwise protected by law.

38 "Registrar" means the Registrar of Regulations appointed as provided in §-9-6-17 2.2-4102.

39 "Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or
40 conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws.

41 "Virginia Register of Regulations" means the publication issued under the provisions of Article 6 (§ 2.2-4031 et seq.)
42 of the Administrative Process Act in Article 7 (§-9-6-14-22 2.2-4000 et seq.) of Chapter 1-1-1 of Title 9.

43 **DRAFTING NOTE:** Technical corrections only.

44 §-9-6-17 2.2-4102. Registrar of Regulations; personnel, facilities and services; publications.

45 The Commission shall engage or appoint on a contract, part-time, or annual basis a professionally experienced or
46 trained Registrar of Regulations. Under the direction of the Commission, the Registrar shall, at a suitable place to be
47 designated by the Commission, perform the duties required by this chapter or assigned by the Commission in accordance
48 with this chapter or Chapter-8-4 15 (§ 30-145 et seq.) of this title Title 30. The Commission shall as necessary also (i) appoint
49 clerical or other personnel if any, (ii) arrange by contract or otherwise for the necessary facilities and services, and (iii) provide
50 for the compilation and publication of the Virginia Register of Regulations and the Virginia Administrative Code pursuant to §§
51 9-6-14-22 2.2-4031 and 9-77-7 30-146, respectively.

52 **DRAFTING NOTE:** Technical corrections only.

§ ~~9-6-18~~ 2.2-4103. Agencies to file regulations with Registrar; other duties; failure to file.

It shall be the duty of every agency to have on file with the Registrar the full text of all of its currently operative regulations, together with the dates of adoption, revision, publication, or amendment thereof and such additional information as may be requested by the Commission or the Registrar for the purpose of publishing the Virginia Register of Regulations and the Virginia Administrative Code. Thereafter, coincidentally with the issuance thereof, each agency shall from day to day so file, date, and supplement all new regulations and amendments, repeals, or additions to its previously filed regulations. ~~Such~~ The filed regulations shall (i) indicate the laws they implement or carry out, (ii) designate any prior regulations repealed, modified, or supplemented, (iii) state any special effective or terminal dates, and (iv) be accompanied by a signed statement or certification that they are full, true, and correctly dated. No regulation or amendment or repeal thereof shall be effective until filed with the Registrar.

Orders condemning or closing any shellfish, finfish or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8, of Title 28.2, which are exempt from the requirements of ~~Chapter 1.4:1 the Administrative Process Act (§ 9-6-14:1-2.2-4000 et seq.) of this title~~ as provided in subsection B of § ~~9-6-14:1-2.2-4002~~, shall be effective on the date specified by the promulgating agency. Such orders shall continue to be filed with the Registrar either before or after their effective dates in order to satisfy the need for public availability of information respecting the regulations of state agencies.

In addition, each agency shall itself (i) maintain a complete list of all of its currently operative regulations for public consultation, (ii) make available to public inspection a complete file of the full texts of all such regulations, and (iii) allow public copying thereof or make copies available either without charge, at cost, or on payment of a reasonable fee. Each agency shall also maintain as a public record a complete file of its regulations ~~which~~ that have been superseded on and after June 1, 1975.

It shall be the duty of every agency to annually file with the Registrar for publication in the Virginia Register of Regulations a list of any guidance documents upon which the agency currently relies. ~~Such~~ The filing shall be made on or before January 1 of each year in a format to be developed by the Registrar. Each agency shall also (i) maintain a complete list of all of its currently operative guidance documents and make such list available for public inspection, (ii) make available for public inspection the full texts of all such guidance documents to the extent such inspection is permitted by law, and (iii) upon request, make copies of such lists or guidance documents available without charge, at cost, or on payment of a reasonable fee.

Where regulations adopt textual matter by reference to publications other than the Federal Register or Code of Federal Regulations, the agency shall (i) file with the Registrar copies of ~~such referred~~ the referenced publications, (ii) state on the face of or as notations to regulations making such adoptions by reference the places where copies of the referred publications may be procured, and (iii) make copies of such referred publications available for public inspection and copying along with its other regulations.

Unless he finds that there are special circumstances requiring otherwise, the Governor, in addition to the exercise of his authority to see that the laws are faithfully executed, may, until compliance with this chapter is achieved, withhold the payment of compensation or expenses of any officer or employee of any agency in whole or part whenever the Commission certifies to him that the agency has failed to comply with this section or this chapter in stated respects, to respond promptly to the requests of the Registrar, or to comply with the regulations of the Commission.

DRAFTING NOTE: Technical corrections only.

§ ~~9-6-20~~ 2.2-4104. Duties of Commission in compiling Virginia Administrative Code and Register.

The Commission, through the Registrar and otherwise as it ~~shall direct~~ directs, may in the course of the work of compiling and maintaining the Virginia Administrative Code and the Register:

~~(a) 1.~~ In writing at any time call upon all agencies to submit to the Registrar one or more copies of all existing regulations as well as all subsequent amendments, repeals, additions, or new regulations; ~~but this does.~~ However, this subdivision shall not derogate from affect the duty of agencies to comply with § ~~9-6-18~~ 2.2-4103 without calls or reminders;

~~(b) 2.~~ Advise agencies as to the form and style of their regulations as well as the codification thereof; and

~~(c) 3.~~ Formulate and issue, without reference to or limitation by the requirements of the Administrative Process Act (§ ~~9-6-14:1-2.2-4000~~ et seq.), general or special regulations respecting the nature and content of the Virginia Administrative Code, making exceptions thereto, supplementing or limiting the duties of agencies hereunder, and otherwise carrying out the purposes of this chapter.

~~(d) [Repealed.]~~

DRAFTING NOTE: Technical corrections only.

§ ~~9-6-22~~ Short title.

~~This chapter shall be known and may be cited as the "Virginia Register Act."~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection A in proposed § 2.2-4100 supra.

1 CHAPTER 42.

2 FAIR EMPLOYMENT CONTRACTING ACT.

3 ~~§ 2.1-374~~ 2.2-4200. Declaration of policy; ~~discrimination prohibited in awarding contracts; definitions.~~

4 ~~A. It is hereby declared to be the policy of the Commonwealth of Virginia to eliminate all discrimination on account of~~
5 ~~race, color, religion, sex, or national origin from the employment practices of the Commonwealth, its agencies, and~~
6 ~~government contractors.~~

7 ~~B. In the awarding of contracts, no contracting agencies shall discriminate because of race, religion, color, sex, or~~
8 ~~national origin.~~

9 ~~C. As used in this chapter, unless the context requires a different meaning:~~

10 ~~"Agency" means any agency or instrumentality, corporate or otherwise, of the government of the Commonwealth.~~

11 ~~"Contractor" means any individual, partnership, corporation or association that performs services for or supplies~~
12 ~~goods, materials, or equipment to the Commonwealth or any agency thereof.~~

13 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
14 A is § 2.1-374, subsection B is § 2.1-376.1 and subsection C is § 2.1-375. The definition of "person" has been deleted
15 because it is defined in § 1-13.19 of Title 1.

16 ~~§ 2.1-375. Definitions.~~

17 ~~Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:~~

18 ~~A. "Person" shall mean an individual, partnership, association or corporation.~~

19 ~~B. "Agency" shall mean any agency or instrumentality, corporate or otherwise, of the government of this~~
20 ~~Commonwealth.~~

21 ~~C. "Contractor" shall mean any individual, partnership, corporation or association which performs services for or~~
22 ~~supplies goods, materials, or equipment to the Commonwealth or any agency thereof.~~

23 **DRAFTING NOTE:** Technical corrections only. The definition of "person" has been deleted here because it is defined in § 1-
24 13.19 of Title 1. This section now appears as subsection C in proposed § 2.2-4200 supra.

25 ~~§ 2.1-376.1. Discrimination prohibited in awarding contracts.~~

26 ~~In the awarding of contracts, no contracting agencies shall discriminate because of race, religion, color, sex, or~~
27 ~~national origin.~~

28 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-4200 supra.

29 ~~§ 2.1-376~~ 2.2-4201. Required contract provisions.

30 All contracting agencies shall include in every government contract of over \$10,000 ~~hereafter entered into the~~
31 ~~following provisions:~~

32 During the performance of this contract, the contractor agrees as follows:

33 1. The contractor will not discriminate against any employee or applicant for employment because of race, religion,
34 color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably
35 necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to
36 employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, including the
37 names of all contracting agencies with which the contractor has contracts of over \$10,000.

38 2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor,
39 state that such contractor is an equal opportunity employer; ~~provided, however, that~~ However, notices, advertisements and
40 solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting
41 the requirements of this chapter.

42 The contractor ~~will~~ shall include the provisions of the ~~foregoing~~ subdivisions 1 and 2 in every subcontract or
43 purchase order of over \$10,000, so that such provisions ~~will~~ shall be binding upon each subcontractor or vendor.

44 Nothing contained in this chapter shall be deemed to empower any agency to require any contractor to grant
45 preferential treatment to, or discriminate against, any individual or any group because of race, color, religion, sex or national
46 origin on account of an imbalance ~~which that~~ may exist with respect to the total number or percentage of persons of any race,
47 color, religion, sex or national origin employed by such contractor in comparison with the total number or percentage of
48 persons of such race, color, religion, sex or national origin in any community or in the Commonwealth.

49 **DRAFTING NOTE:** Technical corrections only.

1 **CHAPTER DRAFTING NOTE:** The Virginia Public Procurement Act (VPPA) has been moved from Title 11 (§ 11-35 et seq.)
2 and incorporated within Part A --Transaction of Public Business of Subtitle II --Administration of Government. Because of the
3 prominence of the Virginia Public Procurement Act and its substantial relationship to the transaction of public business, the
4 Virginia Code Commission felt that its inclusion in Title 2.2 was desirable. As part of the revisions to the VPPA, the numerous
5 exemptions and exclusions from the applicability of the VPPA found primarily in existing §§ 11-35 and 11-45 and other
6 sections of the VPPA have been consolidated to form the basis of proposed Article 3—Exemptions and Limitations, with the
7 concurrence of the Department of General Services. As a result, these exclusions have been grouped according to the
8 following section headings: Exemptions from operation of chapter, Exemptions from competition for certain transactions,
9 Exemptions from competitive sealed bidding and competitive negotiation for certain transactions, and Other exemptions for
10 certain transactions. The drafting notes following each of these proposed sections indicate where provisions contained therein
11 are derived.

12 CHAPTER 43.

13 VIRGINIA PUBLIC PROCUREMENT ACT.

14 Article 1.

15 General Provisions.

16 ~~§ 11-35 2.2-4300. Title Short title; purpose; applicability declaration of intent.~~

17 A. This chapter may be cited as the Virginia Public Procurement Act.

18 B. The purpose of this chapter is to enunciate the public policies pertaining to governmental procurement from
19 nongovernmental sources, to include governmental procurement which that may or may not result in monetary consideration
20 for either party. This chapter shall apply whether the consideration is monetary or nonmonetary and regardless of whether the
21 public body, the contractor, or some third party is providing the consideration.

22 C. ~~The provisions of this chapter, however, shall not apply, except as stipulated in the provisions of §§ 11-41.1, 11-~~
23 ~~41.2:2 through 11-41.2:5, 11-40, 11-51, 11-54, 11-56 through 11-61 and 11-72 through 11-80, to any town with a population of~~
24 ~~less than 3,500 as determined by the last official United States census.~~

25 D. ~~Except to the extent adopted by such governing body, the provisions of this chapter also shall not apply, except as~~
26 ~~stipulated in subsection E, to any county, city or town whose governing body adopts by ordinance or resolution alternative~~
27 ~~policies and procedures which are based on competitive principles and which are generally applicable to procurement of~~
28 ~~goods and services by such governing body and the agencies thereof. This exemption shall be applicable only so long as such~~
29 ~~policies and procedures, or other policies and procedures meeting the requirements of this section, remain in effect in such~~
30 ~~county, city or town. Such policies and standards may provide for incentive contracting which offers a contractor whose bid is~~
31 ~~accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such~~
32 ~~contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer~~
33 ~~or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost~~
34 ~~savings.~~

35 ~~Except to the extent adopted by such school board, the provisions of this chapter shall not apply, except as stipulated~~
36 ~~in subsection E, to any school division whose school board adopts by policy or regulation alternative policies and procedures~~
37 ~~which are based on competitive principles and which are generally applicable to procurement of goods and services by such~~
38 ~~school board. This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures~~
39 ~~meeting the requirements of this section, remain in effect in such school division. This provision shall not exempt any school~~
40 ~~division from any centralized purchasing ordinance duly adopted by a local governing body.~~

41 E. ~~Notwithstanding the exemptions set forth in subsection D, the provisions of §§ 11-41 C, 11-41.1, 11-41.2:2 through~~
42 ~~11-41.2:5, 11-46 B, 11-40, 11-51, 11-54, 11-56 through 11-61 and 11-72 through 11-80 shall apply to all counties, cities and~~
43 ~~school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.~~

44 ~~The method for procurement of professional services set forth in subdivision 3 a of § 11-37 in the definition of~~
45 ~~competitive negotiation shall also apply to all counties, cities and school divisions, and to all towns having a population greater~~
46 ~~than 3,500, where the cost of the professional service is expected to exceed \$30,000 in the aggregate or for the sum of all~~
47 ~~phases of a contract or project. A school board that makes purchases through its public school foundation or purchases~~
48 ~~educational technology through its educational technology foundation, either as may be established pursuant to § 22-1-212.2:2~~
49 ~~shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the~~
50 ~~provisions of §§ 11-51 and 11-72 through 11-80; however, a school board that makes purchases through its public school~~
51 ~~foundation established pursuant § 22-1-212.2:2 shall not be exempt from the provisions of this chapter.~~

52 F. ~~The provisions of this chapter shall not apply to those contracts entered into prior to January 1, 1983, which shall~~
53 ~~continue to be governed by the laws in effect at the time these contracts were executed.~~

54 G. To the end that public bodies in the Commonwealth obtain high quality goods and services at reasonable cost,
55 that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance
56 of impropriety, that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously
57 excluded, it is the intent of the General Assembly that competition be sought to the maximum feasible degree, that
58 procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in

1 fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition,
2 that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor,
3 and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered.
4 Public bodies may consider best value concepts when procuring goods and nonprofessional services, but not construction or
5 professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of
6 best value shall be as stated in the procurement solicitation.

7 ~~H. Notwithstanding the foregoing provisions of this section, the selection of services by the Virginia Retirement
8 System related to the management, purchase or sale of authorized investments, including but not limited to actuarial services,
9 shall be governed by the standard set forth in § 51.1-124.30 and shall not be subject to the provisions of this chapter.~~

10 ~~I. The provisions of this chapter shall apply to procurement of any construction or planning and design services for
11 construction by a Virginia not for profit corporation or organization not otherwise specifically exempted when the planning,
12 design or construction is funded by state appropriations greater than \$10,000 unless the Virginia not for profit corporation or
13 organization is obligated to conform to procurement procedures which are established by federal statutes or regulations,
14 whether or not those federal procedures are in conformance with the provisions of this chapter.~~

15 ~~J. The provisions of this chapter shall not apply to items purchased by public institutions of higher education for resale
16 at retail bookstores and similar retail outlets operated by such institution. However, such purchase procedures shall provide for
17 competition where practicable.~~

18 ~~K. The provisions of this chapter shall not apply to the Virginia Port Authority in the exercise of any of its powers in
19 accordance with Chapter 10 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation
20 adopted by the Board of Commissioners and approved by the Department of General Services, procedures to ensure fairness
21 and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This
22 exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.~~

23 ~~L. Notwithstanding the foregoing provisions of this section, the selection of services by the Board of the Virginia
24 College Savings Plan related to the operation and administration of the Plan, including, but not limited to, contracts or
25 agreements for the management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting
26 services, shall be governed by the standard set forth in § 23-38.80 and shall not be subject to the provisions of this chapter.~~

27 ~~M. Notwithstanding the provisions of this section, the selection of services by the University of Virginia related to the
28 management and investment of its endowment funds shall be governed by the Uniform Management of Institutional Funds Act
29 (§ 55-268.1 et seq.) as required by § 23-76.1 and shall not be subject to the provisions of this chapter.~~

30 ~~N. Notwithstanding the provisions of this section, the selection of investment management services by the State
31 Treasurer related to the external management of funds shall be governed by the standard set forth in § 2-1-328.14, and shall
32 be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the
33 Department of General Services; and not be subject to the provisions of this chapter.~~

34 **DRAFTING NOTE:** Technical corrections. This proposed section covers only the short title, purpose of the Virginia Public
35 Procurement Act and the declaration of intent. The exemptions contained in existing subsections C, D, E, and H through N
36 (shown here as stricken) now appear in proposed Article 3, Exemptions and Limitations, as follows: subsection C is
37 subdivision 9, subsection D is subdivision 10 and 11, subsection E is subdivision 12, subsection H is subdivision 2, subsection
38 I is subdivision 14, subsection J is subdivision 7, subsection K is subdivision 1, subsection L is subdivision 6, subsection M is
39 subdivision 5, and subsection N is subdivision 3, all of proposed § 2.2-4343 (Exemptions from Operation of Chapter).

40 Existing subsection F has been deleted as obsolete.

41 The last phrase in the second paragraph of subsection E, relating to purchases by school boards, has been deleted
42 as it contradicts the remainder of the second paragraph on subsection E.

43 § 11-37 2.2-4301. Definitions.

44 The words defined in this section shall have the meanings set forth below throughout. As used in this chapter:

45 "Best value," as predetermined in the solicitation, means the overall combination of quality, price, and various
46 elements of required services that in total are optimal relative to a public body's needs.

47 "Competitive negotiation" is a method of contractor selection that includes the following elements:

48 1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured,
49 specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other
50 applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the
51 contractor.

52 2. Public notice of the Request for Proposal at least ten days prior to the date set for receipt of proposals by posting
53 in a public area normally used for posting of public notices and by publication in a newspaper or newspapers of general
54 circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of
55 offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice may also be
56 published on the Department of General Services' central electronic procurement Web site and other appropriate Web sites.
57 Effective July 1, 2002, publishing by state agencies, departments and institutions on the public Internet procurement Web site
58 designated by the Department of General Services shall be required. In addition, proposals may be solicited directly from
59 potential contractors.

2 3. a. Procurement of professional services. The public body shall engage in individual discussions with two or more
3 offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional
4 competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be
5 encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as
6 well as alternative concepts. The Request for Proposal shall not, however, request that offerors furnish estimates of man-
7 hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs,
8 including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary
9 information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion,
10 outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information
11 developed in the selection process to this point, the public body shall select in the order of preference two or more offerors
12 whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted,
13 beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a
14 price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked
15 first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract
16 can be negotiated at a fair and reasonable price. Should the public body determine in writing and in its sole discretion that only
17 one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration,
18 a contract may be negotiated and awarded to that offeror.

19 A contract for architectural or professional engineering services relating to construction projects may be negotiated by
20 a state agency, as defined in § 2.2-4347, for multiple projects provided (i) the projects require similar experience and
21 expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to
22 one year or when the cumulative total project fees reach the maximum cost authorized in this paragraph, whichever occurs
23 first. Such contract may be renewable for one additional term at the option of the state agency. Under such contract, (i) the fair
24 and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (ii) the sum of all
25 projects performed in one contract term shall not exceed \$500,000 or such lesser amount as may be determined by the
26 Director of the Department of General Services, and (iii) the project fee of any single project shall not exceed \$100,000 or such
27 lesser amount as may be determined by the Director of the Department of General Services. Any unused amounts from the
28 first contract term shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in
29 awards to more than one offeror provided (i) the Request for Proposal so states and (ii) the state agency has established
30 procedures for distributing multiple projects among the selected contractors during the contract term.

31 Multiphase professional services contracts satisfactory and advantageous to the Department of Transportation for
32 environmental, location, design and inspection work regarding highways and bridges may be negotiated and awarded based
33 on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide
34 information critical to the negotiation of a fair and reasonable price for succeeding phases.

35 b. Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be
36 fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for
37 Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the
38 offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been
39 conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best
40 proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the
41 Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its
42 sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under
43 consideration, a contract may be negotiated and awarded to that offeror.

44 "Competitive sealed bidding" is a method of contractor selection, other than for professional services, which includes
45 the following elements:

46 1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual
47 terms and conditions applicable to the procurement. Unless the public body has provided for prequalification of bidders, the
48 Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to
49 prepare initially a purchase description to support an award based on prices, an Invitation to Bid may be issued requesting the
50 submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified
51 under the criteria set forth in the first solicitation.

52 2. Public notice of the Invitation to Bid at least ten days prior to the date set for receipt of bids by posting in a
53 designated public area, or publication in a newspaper of general circulation, or both. Public notice may also be published on
54 the Department of General Services' central electronic procurement Web site and other appropriate Web sites. Effective July
55 1, 2002, posting by state agencies, departments and institutions on the public Internet procurement Web site designated by
56 the Department of General Services shall be required. In addition, bids may be solicited directly from potential contractors. Any
57 additional solicitations shall include businesses selected from a list made available by the Department of Minority Business
58 Enterprise.

59 3. Public opening and announcement of all bids received.

60 4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications
of potential contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality,
workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

1 5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so
2 provided in the Invitation to Bid, awards may be made to more than one bidder.

3 ~~6. Competitive sealed bidding shall not be required for procurement of professional services.~~

4 ~~"Competitive negotiation" is a method of contractor selection which includes the following elements:~~

5 ~~1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured,~~
6 ~~specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other~~
7 ~~applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the~~
8 ~~contractor.~~

9 ~~2. Public notice of the Request for Proposal at least ten days prior to the date set for receipt of proposals by posting~~
10 ~~in a public area normally used for posting of public notices and by publication in a newspaper or newspapers of general~~
11 ~~circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of~~
12 ~~offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice may also be~~
13 ~~published on the Department of General Services' central electronic procurement Web site and other appropriate Web sites.~~
14 ~~Effective July 1, 2002, publishing by state agencies, departments and institutions on the public Internet procurement Web site~~
15 ~~designated by the Department of General Services shall be required. In addition, proposals may be solicited directly from~~
16 ~~potential contractors.~~

17 ~~3. a. Procurement of professional services. The public body shall engage in individual discussions with two or more~~
18 ~~offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional~~
19 ~~competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be~~
20 ~~encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as~~
21 ~~well as alternative concepts. The Request for Proposal shall not, however, request that offerors furnish estimates of man-~~
22 ~~hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs,~~
23 ~~including, but not limited to, life cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary~~
24 ~~information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion,~~
25 ~~outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information~~
26 ~~developed in the selection process to this point, the public body shall select in the order of preference two or more offerors~~
27 ~~whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted,~~
28 ~~beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a~~
29 ~~price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked~~
30 ~~first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract~~
31 ~~can be negotiated at a fair and reasonable price. When the terms and conditions of multiple awards are so provided in the~~
32 ~~Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its~~
33 ~~sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the~~
34 ~~others under consideration, a contract may be negotiated and awarded to that offeror.~~

35 ~~A contract for architectural or professional engineering services relating to construction projects may be negotiated by~~
36 ~~a state agency, as defined in § 11-62.1, for multiple projects provided (i) the projects require similar experience and expertise,~~
37 ~~(ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year or~~
38 ~~when the cumulative total project fees reach the maximum cost authorized in this paragraph, whichever occurs first. Such~~
39 ~~contract may be renewable for one additional term at the option of the state agency. Under such contract, (i) the fair and~~
40 ~~reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (ii) the sum of all projects~~
41 ~~performed in one contract term shall not exceed \$500,000 or such lesser amount as may be determined by the Director of the~~
42 ~~Department of General Services, and (iii) the project fee of any single project shall not exceed \$100,000 or such lesser amount~~
43 ~~as may be determined by the Director of the Department of General Services. Any unused amounts from the first contract term~~
44 ~~shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in awards to more~~
45 ~~than one offeror provided (i) the Request for Proposal so states and (ii) the state agency has established procedures for~~
46 ~~distributing multiple projects among the selected contractors during the contract term. Multiphase professional services~~
47 ~~contracts satisfactory and advantageous to the Department of Transportation for environmental, location, design and~~
48 ~~inspection work regarding highways and bridges may be negotiated and awarded based on a fair and reasonable price for the~~
49 ~~first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair~~
50 ~~and reasonable price for succeeding phases.~~

51 ~~b. Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be~~
52 ~~fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for~~
53 ~~Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the~~
54 ~~offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been~~
55 ~~conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best~~
56 ~~proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the~~
57 ~~Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its~~
58 ~~sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under~~
59 ~~consideration, a contract may be negotiated and awarded to that offeror.~~

60 "Construction" means building, altering, repairing, improving or demolishing any structure, building or highway, and
61 any draining, dredging, excavation, grading or similar work upon real property.

1 "Construction management contract" means a contract in which a party is retained by the owner to coordinate and
2 administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the
3 furnishing of construction services to the owner.

4 "Design-build contract" means a contract between a public body and another party in which the party contracting with
5 the public body agrees to both design and build the structure, roadway or other item specified in the contract.

6 "Goods" means all material, equipment, supplies, printing, and automated data processing hardware and software.

7 "Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to
8 Bid, or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services
9 or construction being procured.

10 "Multiphase professional services contract" means a contract for the providing of professional services where the total
11 scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior
12 phase of the contract.

13 "Nonprofessional services" means any services not specifically identified as professional services in the definition of
14 professional services.

15 "Potential bidder or offeror" for the purposes of ~~§§ 11-66 2.2-4360 and 11-70 2.2-4364~~ means a person who, at the
16 time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the
17 sale of services, insurance or construction, of the type to be procured under ~~such the~~ contract, and who at such time is eligible
18 and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or
19 proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

20 "Professional services" means work performed by an independent contractor within the scope of the practice of
21 accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry,
22 pharmacy or professional engineering. "Professional services" shall also include the services of an economist procured by the
23 State Corporation Commission.

24 "Public body" means any legislative, executive or judicial body, agency, office, department, authority, post,
25 commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to
26 perform some governmental duty, and empowered by law to undertake the activities described in this chapter.

27 "Public contract" means an agreement between a public body and a nongovernmental source that is enforceable in a
28 court of law.

29 "Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract
30 requirements and the moral and business integrity and reliability ~~which that~~ will assure good faith performance, and who has
31 been prequalified, if required.

32 "Responsive bidder" means a person who has submitted a bid ~~which that~~ conforms in all material respects to the
33 Invitation to Bid.

34 "Services" means any work performed by an independent contractor wherein the service rendered does not consist
35 primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

36 "Sheltered workshop" means a work-oriented rehabilitative facility with a controlled working environment and
37 individual goals ~~which that~~ utilizes work experience and related services for assisting the handicapped person to progress
38 toward normal living and a productive vocational status.

39 **DRAFTING NOTE:** Technical corrections only. Definitions have been alphabetized.

40 ~~§ 11-36 2.2-4302. Implementation.~~

41 This chapter may be implemented by ordinances, resolutions or regulations consistent with this ~~act chapter~~ and with
42 the provisions of other applicable law promulgated by any public body empowered by law to undertake the activities described
43 in this chapter. Any such public body may act by and through its duly designated or authorized officers or employees.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 11-38~~

46 ~~Reserved.~~

47 **DRAFTING NOTE:** Technical corrections. This section has been deleted as obsolete.

48 ~~§ 11-39. Compliance with conditions on federal grants or contracts.~~

49 ~~Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of~~
50 ~~which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the~~
51 ~~provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this~~
52 ~~chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case~~
53 ~~of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest.~~
54 ~~Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.~~

1 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-4343 --Exemptions
2 from Operation of Chapter in Article 3.

3 ~~§ 11-40.2. Exemptions for certain legislative activities.~~

4 ~~The provisions of this chapter and the contract review provisions of § 2.1-563.17 shall not apply to the purchase of~~
5 ~~goods and services by agencies of the legislative branch which may be specifically exempted therefrom by the Chairman of~~
6 ~~the Committee on Rules of either the House of Delegates or the Senate. The exemption shall be in writing and kept on file with~~
7 ~~the agency's disbursement records.~~

8 **DRAFTING NOTE:** Technical corrections. This section now appears as subdivision 8 in proposed § 2.2-4343, Exemptions
9 from Operation of Chapter, of proposed Article 3, Exemptions and Limitations.

10 ~~§ 11-40.3. Exemptions for certain election materials and services.~~

11 ~~Contracts for certain essential election materials and services are exempted from the requirements of Articles 1, 2,~~
12 ~~and 3 of this chapter pursuant to § 24.2-602.~~

13 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection A in proposed § 2.2-4346, Other
14 Exemptions, of proposed Article 3, Exemptions and Limitations.

15 ~~§ 11-40.4. Exception for acquisition of certain motor vehicles by State Department of Social Services or local~~
16 ~~departments of social services.~~

17 ~~The provisions of this chapter shall not apply to the acquisition of motor vehicles by the State Department of Social~~
18 ~~Services or local departments of social services for sale or transfer to Temporary Assistance to Needy Families (TANF)~~
19 ~~recipients.~~

20 **DRAFTING NOTE:** Technical corrections. This section now appears as subdivision 4 in proposed § 2.2-4343, Exemptions
21 from Operation of Chapter of proposed Article 3, Exemptions and Limitations.

22 Article 2.

23 Contract Formation and Administration.

24 ~~§ 11-41.2.2-4303.~~ Methods of procurement.

25 A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of
26 services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided
27 in this section, unless otherwise authorized by law.

28 B. Professional services shall be procured by competitive negotiation.

29 C.-4. Upon a determination made in advance by the public body and set forth in writing that competitive sealed
30 bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by
31 competitive negotiation. The writing shall document the basis for this determination.

32 Upon a written determination made in advance by (i) the Governor or his designee in the case of a procurement by
33 the Commonwealth or by a department, agency or institution thereof or (ii) the local governing body in the case of a
34 procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not
35 fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the
36 procurement of things other than professional services in subdivision 3 b of the definition of "competitive negotiation" in ~~§ 11-~~
37 ~~37.2.2-4301.~~ The basis for this determination shall be documented in writing.

38 ~~2D.~~ Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be
39 used in the following instances upon a determination made in advance by the public body and set forth in writing that
40 competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the
41 basis for this determination:

42 a1. By the Commonwealth, its departments, agencies and institutions on a fixed price design-build basis or
43 construction management basis under ~~§ 11-41.2.2.2-4306;~~

44 b2. By any public body for the alteration, repair, renovation or demolition of buildings when the contract is not
45 expected to cost more than \$500,000;

46 e3. By any public body for the construction of highways and any draining, dredging, excavation, grading or similar
47 work upon real property; or

48 e4. As otherwise provided in ~~§ 11-41.2.2.2-4308.~~

49 ~~DE.~~ Upon a determination in writing that there is only one source practicably available for that which is to be
50 procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive
51 negotiation. The writing shall document the basis for this determination. The public body shall issue a written notice stating that
52 only one source was determined to be practicably available, and identifying that which is being procured, the contractor
53 selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or
54 published in a newspaper of general circulation on the day the public body awards or announces its decision to award the

contract, whichever occurs first. Public notice may also be published on the Department of General Services' central electronic procurement Web site and other appropriate Web sites.

~~E~~F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The public body shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Public notice may also be published on the Department of General Services' central electronic procurement Web site and other appropriate Web sites.

~~F~~G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable. Purchases under this subsection that are expected to exceed \$30,000 shall require the written informal solicitation of a minimum of four bidders or offerors.

~~G~~H. A public body may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed \$30,000; however such small purchase procedures shall provide for competition wherever practicable.

~~H~~. Any local school board may authorize any of its public schools or its school division to enter into contracts providing that caps and gowns, photographs, class rings, yearbooks and graduation announcements will be available for purchase or rental by students, parents, faculty or other persons using nonpublic money through the use of competitive negotiation as provided in this chapter; competitive sealed bidding is not necessarily required for such contracts. The Superintendent of Public Instruction may provide assistance to public school systems regarding this chapter and other related laws.

I. Upon a determination made in advance by the local governing body and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction. The writing shall document the basis for this determination.

~~I~~. ~~Effective until January 1, 2001, procurement of goods, services, or construction to address computers, software programs, databases, networks, information systems, firmware, or any other devices which are not compliant with the "Year 2000" date change shall be deemed emergency procurements under subsection E.~~

DRAFTING NOTE: Technical corrections. Existing subsection H now appears as subsection B of proposed § 2.2-4346 (Other exemptions). Existing subsection I has been deleted as obsolete.

~~§ 41-40~~ 2.2-4304. Cooperative procurement.

A. Any public body may participate in, sponsor, conduct, or administer a cooperative procurement agreement with one or more other public bodies, or agencies of the United States, for the purpose of combining requirements to increase efficiency or reduce administrative expenses. Any public body ~~which that~~ enters into a cooperative procurement agreement with a county, city, or town whose governing body has adopted alternative policies and procedures pursuant to ~~§ 41-35 C-§ 41-35 D subdivisions 9 and 10 of § 2.2-4343 of this chapter~~ shall comply with the alternative policies and procedures adopted by the governing body of such county, city, or town.

B. Subject to the provisions of ~~§§ 2.1-440 2.2-1110, 2.1-442-2.2-1111 and 2.1-447 2.2-1120~~, any authority, department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or administer a cooperative procurement arrangement with private health or educational institutions or with public agencies or institutions of the several states, territories of the United States, or the District of Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services. In such instances, deviation from the procurement procedures set forth in ~~the Virginia Public Procurement Act (§ 41-35 et seq.) this chapter~~ and the administrative policies and procedures established to implement ~~the Act will this chapter shall~~ be permitted, if approved by the Director of the Division of Purchases and Supply; ~~however~~. However, such acquisitions shall be procured competitively. Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

~~C~~. ~~A public body which is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators which are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subsection may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.~~

DRAFTING NOTE: Technical corrections. Subsection C, shown here as stricken, now appears in subdivision 13 in proposed § 2.2-4343—Exemptions from Operation of Chapter—in Article 3.

~~§ 41-41.1~~ 2.2-4305. Competitive bidding procurement by localities on state-aid projects.

1 No contract for the construction of any building or for an addition to or improvement of an existing building by an
2 ~~local government or subdivision of local government governing body or subdivision thereof~~ for which state funds of not mo
3 than \$30,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan,
4 are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after
5 competitive negotiation as provided under ~~subdivision 2 of subsection C-D of § 44-41 2.2-4303~~. The procedure for the
6 advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 44-41.2-2 2.2-4306~~. Design-build or construction management contracts for Commonwealth authorized.

9 A. Notwithstanding any other provisions of law, the Commonwealth may enter into contracts on a fixed price design-
10 build basis or construction management basis in accordance with the provisions of this section and ~~§ 2-1-51.34 2.2-1502~~.
11 Procedures to implement this section and any changes to such procedures shall be adopted by the Secretary of Administration
12 after a public hearing and ~~approval~~ reviewed by the House Committee on Appropriations and the Senate Committee on
13 Finance Committees.

14 B. Procurement of construction by the design-build method shall be a two-step competitive negotiation process. In
15 the first step, offerors shall be requested to submit their qualifications. Based upon the information submitted and any other
16 relevant information which the Commonwealth may obtain, no more than five offerors deemed most suitable for the project
17 shall be selected by the Commonwealth and requested to submit proposals.

18 C. Design-build contracts may be used by the Commonwealth only for those types of construction projects
19 designated in the procedures adopted by the Secretary of Administration to implement this section.

20 **DRAFTING NOTE:** Technical corrections. In subsection A, the term "approved" has been replaced with "reviewed" to reflect
21 current practice.

22 ~~§ 44-41.2-02 2.2-4307~~. Fixed-price or not-to-exceed-price design-build and construction management contracts for
23 juvenile correctional facilities authorized.

24 Notwithstanding the provisions of ~~§ 44-41.2 2.2-4306~~, but subject to the procedures adopted by the Secretary of
25 Administration to implement the provisions of that section, the Commonwealth may enter into contracts for juvenile correctional
26 facilities on a fixed-price or not-to-exceed-price design-build basis or construction management basis, including related leases,
27 lease/purchase contracts, agreements relating to the sale of securities to finance such facilities, and similar financing
28 agreements.

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§ 44-41.2-2 2.2-4308~~. Design-build or construction management contracts for public bodies other than the
31 Commonwealth; eligibility requirements; award of contract; records to be kept.

32 A. While the competitive sealed bid process remains the preferred method of construction procurement for public
33 bodies in the Commonwealth, any public body other than the Commonwealth may enter into a contract for construction on a
34 fixed price or not-to-exceed price design-build or construction management basis provided the public body complies with the
35 requirements of this section and has obtained the approval of the Design-Build/Construction Management Review Board (the
36 Review Board) pursuant to ~~§ 44-41.2-5 2.2-2406~~.

37 Prior to making a determination as to the use of design-build or construction management for a specific construction
38 project, the public body shall have in its employ or under contract a licensed architect or engineer with professional
39 competence appropriate to the project who shall advise the public body regarding the use of design-build or construction
40 management for that project and who shall assist the public body with the preparation of the Request for Proposal and the
41 evaluation of such proposals.

42 Prior to issuing a Request for Proposal for any design-build or construction management contract for a specific
43 construction project, the public body shall:

44 1. Have adopted, by ordinance or resolution, written procedures governing the selection, evaluation and award of
45 design-build and construction management contracts. Such procedures shall be consistent with those described in this chapter
46 for the procurement of nonprofessional services through competitive negotiation. Such procedures shall also require Requests
47 for Proposals to include and define the criteria of such construction project in areas such as site plans; floor plans; exterior
48 elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical
49 systems; and special telecommunications; and may define such other requirements as the public body determines appropriate
50 for that particular construction project. Except as may otherwise be approved by the Review Board, such procedures for:

51 a. Design-build construction projects shall include a two-step competitive negotiation process consistent with the
52 Review Board's regulations.

53 b. Construction management projects shall include selection procedures and required construction management
54 contract terms consistent with the Review Board's regulations.

55 2. Have documented in writing that for a specific construction project (i) a design-build or construction management
56 contract is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the public body t

1 using a design-build or construction management contract; and (iii) competitive sealed bidding is not practical or fiscally
2 advantageous.

3 B. Once approved by the Review Board in accordance with ~~§ 11-41.2-5~~ 2.2-2406, the public body may procure a
4 design-build or construction management contract for the specific construction project presented to the Review Board. Unless
5 otherwise specified in the Request for Proposal, ~~such the~~ contract shall be awarded to the fully qualified offeror who submits
6 an acceptable proposal at the lowest cost in response to the Request for Proposal.

7 C. The public body shall provide information as requested by the Review Board to allow post-project evaluation by
8 the Review Board.

9 DRAFTING NOTE: Technical corrections only.

10 ~~§ 11-55 2.2-4309.~~ Modification of the contract.

11 A. A public contract may include provisions for modification of the contract during performance, but no fixed-price
12 contract may be increased by more than twenty-five percent of the amount of the contract or \$50,000, whichever is greater,
13 without the advance written approval of the Governor or his designee, in the case of state agencies, or the governing body, in
14 the case of political subdivisions. In no event may the amount of any contract, without adequate consideration, be increased
15 for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

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

18 ~~B.-C.~~ Nothing in this section shall prevent any public body from placing greater restrictions on contract modifications.

19 DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsections
20 A and C are § 11-55 and subsection B is § 11-45 C.

21 ~~§ 11-44 2.2-4310.~~ Discrimination prohibited; participation of small and minority-owned business.

22 A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of
23 race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in
24 employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available
25 by the Department of Minority Business Enterprise.

26 B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small
27 businesses and businesses owned by women and minorities in procurement transactions. The programs established shall be
28 in writing and shall include cooperation with the Department of Minority Business Enterprise, the United States Small Business
29 Administration, and other public or private agencies. State agencies shall submit annual progress reports on minority business
30 procurement to the Department of Minority Business Enterprise.

31 DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A
32 is § 11-44 and subsection B is § 11-48.

33 ~~§ 11-51 2.2-4311.~~ Employment discrimination by contractor prohibited; required contract provisions.

34 All public bodies shall include in every contract of ~~over more than~~ \$10,000 the following provisions in 1 and 2 herein:

35 1. During the performance of this contract, the contractor agrees as follows:

36 a. The contractor will not discriminate against any employee or applicant for employment because of race, religion,
37 color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment,
38 except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor.
39 The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting
40 forth the provisions of this nondiscrimination clause.

41 b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will
42 state that such contractor is an equal opportunity employer.

43 c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed
44 sufficient for the purpose of meeting the requirements of this section.

45 2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase
46 order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

47 DRAFTING NOTE: Technical corrections only. This language tracks the Fair Employment Contracting Act.

48 ~~§ 11-51.1 2.2-4312.~~ Drug-free workplace to be maintained by contractor; required contract provisions.

49 All public bodies shall include in every contract over \$10,000 the following provisions:

50 During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's
51 employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying
52 employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or
53 marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for
54 violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the

1 contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every
2 subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

3 For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection
4 with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from
5 engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or
6 marijuana during the performance of the contract.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 11-41.4. (Effective until January 1, 2001) Year 2000 Remediation.~~

9 ~~That, to obtain responses to Requests for Proposals or Invitations to Bid for goods or nonprofessional services to
10 remediate computers, software programs, databases, networks, or information systems which are not compliant with the "Year
11 2000" date change and such goods or services are to be procured through competitive negotiation or competitive sealed
12 bidding pursuant to the Virginia Public Procurement Act (§ 11-35 et seq.), public bodies shall strive to solicit responsible
13 bidders or offerors who provide such remediation in Virginia and may solicit other responsible bidders or offerors to provide
14 such remediation.~~

15 **DRAFTING NOTE:** This section has been deleted as precatory.

16 ~~§ 11-41.04 2.2-4313. Petition for recycled goods and products; periodic review of procurement standards.~~

17 A. Any person who believes that particular goods or products with recycled content are functionally equivalent to the
18 same goods or products produced from virgin materials may petition the Department of General Services or ~~an other~~
19 appropriate agency of the Commonwealth to include the recycled goods or products in its procurement process. The
20 petitioner shall submit, prior to or during the procurement process, documentation ~~which that~~ establishes that the goods or
21 products (i) contain recycled content and (ii) can meet the performance standards set forth in the applicable specifications. If
22 the Department of General Services or ~~the other~~ agency of the Commonwealth ~~which that~~ receives the petition ~~request~~
23 determines that the documentation demonstrates that the goods or products with recycled content will meet the performance
24 standards set forth in the applicable specifications, it shall incorporate ~~such the~~ goods or products into its procurement
25 process.

26 B. The Department of General Services and all agencies of the Commonwealth shall review and revise their
27 procurement procedures and specifications on a continuing basis to encourage the use of goods and products with recycled
28 content and shall, in developing new procedures and specifications, encourage the use of goods and products with recycled
29 content.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 11-41.02 2.2-4314. Petition for procurement of less toxic goods and products; periodic review of procurement~~
32 ~~standards.~~

33 A. As used in this section:

34 "Goods and products" means goods and products that are used or consumed by an agency of the Commonwealth in
35 the performance of its statutory functions. The term shall include, but not be limited to: (i) cleaning materials, (ii) paints and
36 coatings, (iii) solvents, (iv) adhesives, (v) inks, and (vi) pesticides and herbicides. The term shall not include: (i) fuels, (ii) food
37 and beverages, (iii) furniture and fixtures, (iv) tobacco products, and (v) packaging and containers.

38 "Less toxic goods and products" means goods and products ~~which that~~ (i) are functionally equivalent to and (ii)
39 contain, emit, produce, or generate, less toxic or hazardous substances, or other toxic or hazardous substances ~~which that~~
40 pose less of a hazard to public health and safety, or both, than goods and products procured by the Department of General
41 Services or other agency of the Commonwealth.

42 "Toxic or hazardous substance" means (i) a chemical identified on the Toxic Chemical List established pursuant to §
43 313 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq. (P.L. 99-499) or (ii) a chemical
44 listed pursuant to §§ 101 (14) or 102 of the Comprehensive Environmental Response, Compensation and Liability Act, 42
45 U.S.C. § 9601 et seq. (P.L. 92-500).

46 B. Any person who manufactures, sells, or supplies goods or products may petition the Department of General
47 Services or other appropriate agency of the Commonwealth for the inclusion of the less toxic goods and products in its
48 procurement process. The petitioner shall submit, prior to or during the procurement process, documentation ~~which that~~
49 establishes that the goods or products meet the performance standards set forth in the applicable specifications. If the
50 Department of General Services or other agency of the Commonwealth ~~which that~~ receives the petition determines that the
51 documentation establishes that the less toxic goods or products meet the performance standards set forth in the applicable
52 specifications, it shall incorporate such goods or products into its procurement process.

53 C. The Department of General Services and ~~other all~~ agencies of the Commonwealth shall review and revise their
54 procurement procedures and specifications on a continuing basis to encourage the use of less toxic goods and products;
55 ~~however, However,~~ nothing in this section shall require the Department or ~~such other~~ agencies to purchase, test or evaluate
56 any particular goods or products. Nor shall this section require the Department to purchase goods or products other than those
57 that would be purchased under regular procurement procedures.

DRAFTING NOTE: Technical corrections only.

~~§ 11-41.2:3. Design-Build/Construction Management Review Board created; membership; terms; staffing; seal.~~

~~A. There is hereby created the Design-Build/Construction Management Review Board, hereinafter referred to as the Review Board, which shall be composed of nine members to be appointed by the Governor as follows: the Director of the Division of Engineering and Buildings of the Department of General Services, or his designee; two Class A general contractors selected from a list recommended by the Associated General Contractors; one architect and one engineer selected from a list recommended by the Consulting Engineers Council of Virginia, the Virginia Society of the American Institute of Architects, and the Virginia Society of Professional Engineers; and four representatives of public bodies other than the Commonwealth selected from a list recommended by the Virginia Municipal League and the Virginia Association of Counties. Each such list, other than those recommended as representatives of public bodies, shall include the names of at least four persons who are experienced and actively engaged in competitive sealed bidding or competitive negotiation and in design-build or construction management procedures. The list for representatives of public bodies shall include at least four persons who are experienced in competitive sealed bidding or competitive negotiation and in design-build or construction management procedures. The Director of the Division of Engineering and Buildings or his designee shall be a nonvoting member of the Review Board, except in the event of a tie vote of the Review Board.~~

~~B. The initial terms of the Review Board shall be as follows: three members shall be appointed for two-year terms, three members shall be appointed for three-year terms and three members shall be appointed for four-year terms. Thereafter, all appointments shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to serve for more than two successive full terms, except the Director of the Division of Engineering and Buildings, who shall serve until a successor qualifies.~~

~~C. The Review Board shall elect its chairman and vice chairman from among its members. Members shall receive no compensation for their services as members of the Review Board, but shall receive reasonable expenses.~~

~~D. The Review Board shall meet monthly to conduct its business as required by § 11-41.2:4. However, monthly meetings may be canceled by the chairman if there is no business before the Review Board. Five members shall constitute a quorum.~~

~~E. Such staff support as is necessary for the conduct of the Review Board's business shall be furnished by the Division of Engineering and Buildings of the Department of General Services pursuant to § 2-1-483.1:2.~~

~~F. The Review Board shall adopt a seal by which it shall authenticate its proceedings.~~

DRAFTING NOTE: Technical corrections. This section now appears as § 2.2-2404 in Part D of subtitle 1 under the heading of "Boards".

~~§ 11-41.2:4. Duties of the Design-Build/Construction Management Review Board; transitional provisions relating to regulations.~~

~~A. The Review Board shall have the following duties:~~

~~1. Review submissions by public bodies other than the Commonwealth of draft or adopted ordinances or resolutions to determine if the process for the selection, evaluation and award of a design-build or construction management contract is in compliance with the provisions of subdivision A 1 of § 11-41.2:2;~~

~~2. Determine if the public body has complied with the provisions of § 11-41.2:2 relating to the retention of a licensed architect or engineer;~~

~~3. Review the findings and the basis of such findings submitted by the public body to determine if the public body has complied with the requirements of § 11-41.2:2 and that the findings made by the public body pursuant to § 11-41.2:2 are not unreasonable;~~

~~4. Develop guidelines relating to the documents and information to be reviewed by the Review Board;~~

~~5. Make post-project evaluations of construction projects procured by design-build or construction management contracts entered into by public bodies other than the Commonwealth, including cost and time savings, effectiveness of the selection, evaluation and award of such contracts, and the benefit to the public body; and~~

~~6. Report to the General Assembly and the Governor on or before December 1, 1999, concerning the Review Board's evaluation of and findings regarding all design-build and construction management construction undertaken by public bodies other than the Commonwealth since July 1, 1996, and any recommendations relating to future use of design-build or construction management contracts by such public bodies.~~

~~B. On or before July 1, 1997, the Review Board shall adopt regulations, as it deems appropriate, based on the substantive requirements of Chapter IX of the Capital Outlay Manual of the Commonwealth, for a two-step competitive negotiation process which shall be applied to design-build and construction management projects undertaken by public bodies other than the Commonwealth. For construction management projects, such regulations shall also include applicable provisions of the Required Construction Management Contract Terms of the Capital Outlay Manual. Such regulations shall also allow the Review Board to approve deviations from provisions of the Capital Outlay Manual that it deems appropriate. Such regulations, upon final adoption, shall supersede the provisions of subdivisions A 1 a and A 1 b of § 11-41.2:2. Regulations of the Review Board shall be adopted in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.), except that regulations adopted pursuant to this subsection during the Review Board's first year of operation shall not be~~

1 subject to the Administrative Process Act. Thereafter, all regulations shall be adopted in accordance with the Administrativ
2 Process Act.

3 **DRAFTING NOTE:** Technical corrections. This section now appears as § 2.2-2405 in Part D of subtitle 1 under the heading of
4 "Boards". The penultimate sentence of this section have been deleted as obsolete.

5 ~~§ 11-41.2:5. Review by the Review Board for design-build or construction management approval; effect of
6 disapproval; review of Review Board decision.~~

7 ~~The Review Board shall conduct such inquiry it deems appropriate and may require the submission of additional
8 documents or information by the public body, in a form prescribed by the Review Board, to determine if the public body has
9 complied with the provisions of § 11-41.2:2.~~

10 ~~Within sixty days of the receipt of the request for review, the Review Board shall render a decision, unless a different
11 timetable is agreed to by the public body. If the Review Board determines that the public body has complied with the
12 provisions of § 11-41.2:2 and the findings made by the public body pursuant to subdivision A 2 of § 11-41.2:2 are not
13 unreasonable, the Review Board shall approve such use. If the Review Board determines that (i) the public body has not
14 complied with the provisions of § 11-41.2:2 or (ii) the findings made by the public body pursuant to subdivision A 2 of § 11-
15 41.2:2 are unreasonable, it shall disapprove such use, and the public body shall not use a design-build or construction
16 management contract to procure construction for the proposed project. If no decision is made by the Review Board within the
17 sixty day period or as otherwise agreed to by the public body, the proposed use of a design-build or construction management
18 contract shall be deemed approved.~~

19 ~~Any public body other than the Commonwealth which has been aggrieved by any action of the Review Board shall be
20 entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the Administrative
21 Process Act (§ 9-6.14:1 et seq.).~~

22 **DRAFTING NOTE:** Technical corrections. This section now appears as § 2.2-2406 in Part D of subtitle 1 under the heading of
23 "Boards".

24 ~~§ 11-45. (For expiration date - See note) Exceptions to requirement for competitive procurement.~~

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

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

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

34 ~~D. An industrial development authority may enter into contracts without competition with respect to any item of cost
35 of "authority facilities" or "facilities" as defined in § 15.2-4002.~~

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

38 ~~F. Any public body administering public assistance programs as defined in § 63.1-87, the fuel assistance program,
39 community services boards as defined in § 37.1-1, or any public body purchasing services under the Comprehensive Services
40 Act for At-Risk Youth and Families (§ 2.1-745 et seq.) or the Virginia Juvenile Community Crime Control Act (§ 16.1-300.2 et
41 seq.) may procure goods or personal services for direct use by the recipients of such programs without competitive sealed
42 bidding or competitive negotiations if the procurement is made for an individual recipient. Contracts for the bulk procurement of
43 goods or services for the use of recipients shall not be exempted from the requirements of § 11-41.~~

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

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

54 ~~I. The Director of the Department of Medical Assistance Services may enter into contracts without competitive sealed
55 bidding or competitive negotiation for special services provided for eligible recipients pursuant to § 32.1-325-E, provided that
56 the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitiv
57 sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute
58 imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.~~

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

4 ~~K. (Effective until July 1, 2003) The State Health Commissioner may enter into agreements or contracts without~~
5 ~~competitive sealed bidding or competitive negotiation for the compilation, storage, analysis, evaluation, and publication of~~
6 ~~certain data submitted by health care providers and for the development of a methodology to measure the efficiency and~~
7 ~~productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made~~
8 ~~a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or~~
9 ~~competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for~~
10 ~~this determination. Such agreements and contracts shall be based on competitive principles.~~

11 ~~L. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2,~~
12 ~~with members selected pursuant to such article, may enter into contracts without competition with respect to the exercise of~~
13 ~~any of its powers permitted by § 15.2-5158; however, this exception shall not apply in cases where any public funds other than~~
14 ~~special assessments and incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such~~
15 ~~contract.~~

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

21 ~~N. The Virginia Baseball Stadium Authority may enter into agreements or contracts without competitive sealed~~
22 ~~bidding or competitive negotiation for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800~~
23 ~~et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such~~
24 ~~facilities.~~

25 ~~O. The Department of Health may procure child restraint devices, pursuant to § 46.2-1007, without competitive~~
26 ~~sealed bidding or competitive negotiation.~~

27 ~~P. With the consent of the Governor, the Jamestown-Yorktown Foundation may enter into agreements or contracts~~
28 ~~with private entities without competitive sealed bidding or competitive negotiation for the promotion of tourism through~~
29 ~~marketing provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the~~
30 ~~Foundation and such agreements or contracts are based on competitive principles.~~

31 ~~Q. The Virginia Racing Commission may designate an entity to administer and promote the Virginia Breeders Fund~~
32 ~~created pursuant to § 59.1-372.~~

33 ~~R. The Chesapeake Hospital Authority may enter into contracts without competitive sealed bidding or competitive~~
34 ~~negotiation in the exercise of any power conferred under Chapter 274, as amended, of the Acts of Assembly of 1966.~~

35 ~~S. The Hospital Authority of Norfolk may enter into contracts without competitive sealed bidding or competitive~~
36 ~~negotiation in the exercise of any power conferred under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2. The Authority shall not~~
37 ~~discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related~~
38 ~~medical conditions, age, marital status, or disability in the procurement of goods and services.~~

39 ~~T. The Department of Health may enter into contracts without competitive sealed bidding or competitive negotiation~~
40 ~~for health care services with Virginia corporations granted tax exempt status under § 501 (c) (3) of the Internal Revenue Code~~
41 ~~and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a~~
42 ~~community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced~~
43 ~~or sliding fee scale or without charge.~~

44 ~~U. The Department for the Aging may enter into contracts with not-for-profit Virginia corporations granted tax exempt~~
45 ~~status under § 501 (c) (3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term~~
46 ~~care ombudsman program or designated area agencies on aging without competitive sealed bidding or competitive negotiation~~
47 ~~for the administration of older rights programs.~~

48 ~~V. The Patrick Hospital Authority may enter into contracts without competitive sealed bidding or competitive~~
49 ~~negotiation in the exercise of any power conferred under the Acts of Assembly of 2000.~~

50 ~~W. The Inspector General for Mental Health, Mental Retardation and Substance Abuse Services may enter into~~
51 ~~contracts without competition to obtain the services of licensed health care professionals or other experts to assist in carrying~~
52 ~~out the duties of the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.~~

53 **DRAFTING NOTE:** Technical corrections. This section now appears in proposed Article 3, Exemptions and limitations, as
54 follows:

- 55 Subsection A is subdivision A. 1. in proposed § 2.2-4344;
56 Subsection B is subdivision A. 2. in proposed § 2.2-4344;
57 Subsection C is subsection B in proposed § 2.2-4309;
58 Subsection D is subsection B in proposed § 2.2-4344;
59 Subsection E is subdivision A. 4. in proposed § 2.2-4345;

1 Subsection F is subdivision A. 14. in proposed § 2.2-4345;
2 Subsection G is subdivision A. 13. in proposed § 2.2-4345;
3 Subsection H is clause (iii) of subdivision A. 6. in proposed § 2.2-4345;
4 Subsection I is subdivision A. 1. in proposed § 2.2-4345;
5 Subsection J is subdivision A. 3. in proposed § 2.2-4345;
6 Subsection K is subdivision A. 2. in proposed § 2.2-4345;
7 Subsection L is subsection C in proposed § 2.2-4344;
8 Subsection M is subdivision A. 7. in proposed § 2.2-4345;
9 Subsection N is subdivision 8 in proposed § 2.2-4345;
10 Subsection O is clause (i) of subdivision A. 6. in proposed § 2.2-4345;
11 Subsection P is subdivision 9 in proposed § 2.2-4345;
12 Subsection Q is subsection C in proposed § 2.2-4346;
13 Subsection R is subdivision 10 in proposed § 2.2-4345;
14 Subsection S is subdivision 11 in proposed § 2.2-4345;
15 Subsection T is clause (ii) of subdivision A. 6. in proposed § 2.2-4345;
16 Subsection U is subdivision A. 5. in proposed § 2.2-4345;
17 Subsection V is subdivision 12 in proposed § 2.2-4345; and
18 Subsection W is subsection D in proposed § 2.2-4344.

19 ~~§ 44-49 2.2-4315.~~ Use of brand names.

20 Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer ~~does~~ shall not
21 restrict bidders to the specific brand, make or manufacturer named; ~~it conveys and shall be deemed to convey~~ the general
22 style, type, character, and quality of the article desired, ~~and any. Any article which that~~ the public body in its sole discretion
23 determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the
24 purpose intended, shall be accepted.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§ 44-50 2.2-4316.~~ Comments concerning specifications.

27 Every public body awarding public contracts shall establish procedures whereby comments concerning specifications
28 or other provisions in Invitations to Bid or Requests for Proposal can be received and considered prior to the time set for
29 receipt of bids or proposals or award of the contract.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 44-46 2.2-4317.~~ Prequalification generally; prequalification for construction.

32 A. Prospective contractors may be prequalified for particular types of supplies, services, insurance or construction,
33 and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedure shall be established
34 in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the
35 process.

36 B. Any prequalification of prospective contractors for construction by a public body ~~subsequent to July 1, 1995,~~ shall
37 be pursuant to a prequalification process for construction projects adopted by the public body. ~~Such-The~~ process shall be
38 consistent with the provisions of this ~~subsection~~ section.

39 The application form used in such process shall set forth the criteria upon which the qualifications of prospective
40 contractors will be evaluated. The application form shall request of prospective contractors only such information as is
41 appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. ~~Such-The~~ form shall allow the
42 prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily
43 submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to
44 the provisions of subsection D of ~~§ 44-52 2.2-4342.~~

45 In all instances in which the public body requires prequalification of potential contractors for construction projects,
46 advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission
47 shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures
48 set forth in this subsection to be accomplished.

49 At least thirty days prior to the date established for submission of bids or proposals under the procurement of the
50 contract for which the prequalification applies, the public body shall advise in writing each contractor ~~which-who~~ submitted an
51 application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written
52 notification to ~~such-the~~ contractor shall state the reasons for ~~such-the~~ denial of prequalification and the factual basis of such
53 reasons.

54 A decision by a public body denying prequalification under the provisions of this subsection shall be final and
55 conclusive unless the contractor appeals the decision as provided in ~~§ 44-63 2.2-4357.~~

56 C. A public body may deny prequalification to any contractor only if the public body finds one of the following:

57 1. The contractor does not have sufficient financial ability to perform the contract that would result from such
58 procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond

from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the public body shall be sufficient to establish the financial ability of ~~such-the~~ contractor to perform the contract resulting from such procurement;

2. The contractor does not have appropriate experience to perform the construction project in question;

3. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause. If the public body has not contracted with a contractor in any prior construction contracts, the public body may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. A public body may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

5. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 4-6 (~~§ 41-72-2.2-4367~~ et seq.) of this chapter, (ii) the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.), (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1, or (iv) any substantially similar law of the United States or another state;

6. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

7. The contractor failed to provide to the public body in a timely manner any information requested by the public body relevant to subdivisions 1 through 6 of this subsection.

D. If a public body has a prequalification ordinance ~~which-that~~ provides for minority participation in municipal construction contracts, that public body may also deny prequalification based on minority participation criteria; ~~provided, however, that.~~ However, nothing herein shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the Commonwealth.

E. The provisions of this subsection ~~do-shall~~ not apply to prequalification for contracts let by the Commonwealth Transportation Board under § 33.1-12.

DRAFTING NOTE: Technical corrections only.

~~§ 41-53~~ 2.2-4318. Negotiation with lowest responsible bidder.

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, the public body may negotiate with the apparent low bidder to obtain a contract price within available funds; ~~however, such.~~ However, the negotiation may be undertaken only under conditions and procedures described in writing and approved by the public body prior to issuance of the Invitation to Bid and summarized therein.

DRAFTING NOTE: Technical corrections only.

~~§ 41-42~~ 2.2-4319. Cancellation, rejection of bids; waiver of informalities.

A. An Invitation to Bid, a Request for Proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. The reasons for cancellation or rejection shall be made part of the contract file. A public body shall not cancel or reject an Invitation to Bid, a Request for Proposal, any other solicitation, bid or proposal pursuant to this section solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

B. A public body may waive informalities in bids.

DRAFTING NOTE: Technical corrections only.

~~§ 41-44.4~~ 2.2-4320. Exclusion of insurance bids prohibited.

Notwithstanding any other provision of law, no insurer licensed to transact the business of insurance in ~~this-the~~ Commonwealth or approved to issue surplus lines insurance in ~~this-the~~ Commonwealth ~~may-shall~~ be excluded from presenting an insurance bid proposal to a public body in response to a request for proposal or an invitation to bid. Nothing in this section shall preclude a public body from debarring a prospective ~~contractor-insurer~~ pursuant to ~~§ 41-46.4~~ 2.2-4321.

DRAFTING NOTE: Technical corrections only.

~~§ 41-46.4~~ 2.2-4321. Debarment.

Prospective contractors may be debarred from contracting for particular types of supplies, services, insurance or construction, for specified periods of time. Any debarment procedure shall be established in writing for state agencies and institutions by the agency ~~or-agencies~~ designated by the Governor ~~may designate,~~ and for political subdivisions by their

1 governing bodies. Any debarment procedure may provide for debarment on the basis of a contractor's unsatisfactor
2 performance for a public body.

3 **DRAFTING NOTE:** Technical corrections only. The words "or agencies" has been deleted as unnecessary because § 1-
4 13.15 provides that the singular includes the plural and vice versa in the rules of statutory construction.

5 | ~~§ 11-45.1 2.2-4322.~~ Acceptance of bids submitted to the Department of Transportation.

6 In a procurement by the Department of Transportation by competitive sealed bidding for highway construction and
7 maintenance contracts, the Department may accept bids in response to an Invitation to Bid at the Department's central office
8 or at district offices or other satellite locations designated in the Invitation to Bid, in accordance with specifications adopted by
9 the Department. An Invitation to Bid may authorize agents of the Department to accept from bidders on a voluntary basis a
10 supplemental submission referencing the total bid amount on a form prescribed by the Department. Information contained in
11 any supplemental submission may be made available to the public by the Department after the time for receiving bids has
12 expired and before the public opening and announcement of all sealed bids.

13 **DRAFTING NOTE:** Technical corrections only.

14 | ~~§ 11-47.04 2.2-4323.~~ Purchase programs for recycled goods; agency responsibilities.

15 A. ~~State~~ All state agencies which are members of the Virginia Recycling Markets Development Council and all other
16 state agencies shall implement a purchase program for recycled goods. State agencies and shall coordinate their efforts so as
17 to achieve the goals and objectives established in subsection C of this section as well as those set forth in §§ 10.1-1425.6,
18 10.1-1425.7, 10.1-1425.8, ~~11-41.04 2.2-4313, 11-47.2-4324, and 11-47.2 2.2-4326.~~

19 B. The Department of Environmental Quality, with advice from the Virginia Recycling Markets Development Council,
20 shall advise the Department of General Services concerning the designation of recycled goods. In cooperation with the
21 Department of General Services, the Department of Environmental Quality shall increase the awareness of state agencies as
22 to the benefits of using such products.

23 C. The Department of General Services shall:

24 1. Ensure that the Commonwealth's procurement guidelines for state agencies promote the use of recycled goods.

25 2. Promote the Commonwealth's interest in the use of recycled products to vendors.

26 3. Make agencies aware of the availability of recycled goods, including those ~~which~~ that use post-consumer and other
27 recovered materials processed by Virginia-based companies.

28 D. All state agencies shall, to the greatest extent possible, adhere to the procurement program guidelines f
29 recycled products to be established by the Department of General Services.

30 **DRAFTING NOTE:** Technical corrections only.

31 | ~~§ 11-47.2 2.2-4324.~~ Preference for Virginia products with recycled content and for Virginia firms.

32 A. In the case of a tie bid, preference shall be given to goods, services and construction produced in Virginia or
33 provided by Virginia persons, firms or corporations, if such a choice is available; otherwise the tie shall be decided by lot.

34 B. Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of
35 that state a preference, a like preference may be allowed to the lowest responsible bidder who is a resident of Virginia.

36 C. Notwithstanding the provisions of subsections A and B, in the case of a tie bid in instances where goods are being
37 offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose
38 goods contain the greatest amount of recycled content.

39 **DRAFTING NOTE:** Technical corrections only.

40 | ~~§ 11-47.1 2.2-4325.~~ Priority-Preference for Virginia coal used in state facilities.

41 In determining the award of any contract for coal to be purchased for use in state facilities with state funds, the
42 Department of General Services shall procure using competitive sealed bidding and shall award to the lowest responsive and
43 responsible bidder offering coal mined in Virginia so long as its bid price is not more than four percent greater than the bid
44 price of the low responsive and responsible bidder offering coal mined elsewhere.

45 **DRAFTING NOTE:** Technical corrections only.

46 | ~~§ 11-47.2 2.2-4326.~~ Preference for recycled paper and paper products used by state agencies.

47 A. In determining the award of any contract for paper and paper products to be purchased for use by agencies of the
48 Commonwealth, the Department of General Services shall procure using competitive sealed bidding and shall award to the
49 lowest responsible bidder offering recycled paper and paper products of a quality suitable for the purpose intended, so long as
50 the bid price is not more than ten percent greater than the bid price of the low responsive and responsible bidder offering a
51 product that does not qualify under subsection B of this section.

52 B. For purposes of this section, recycled paper and paper products means any paper or paper products meeting the
53 EPA Recommended Content Standards as defined in 40 C.F.R. Part 250.

1 **DRAFTING NOTE:** Technical corrections only.

2 | ~~§ 11-47.3 2.2-4327. (Effective until July 1, 2003)~~ Preference for community reinvestment activities in contracts for
3 investment of funds.

4 | A. Notwithstanding any other provision of law, any county or city ~~which that~~ is authorized to and has established
5 affordable housing programs pursuant to (i) § 15.2-2304 or § 15.2-2305 or (ii) a local ordinance adopted prior to December 31,
6 1988, may provide by resolution that in determining the award of any contract for time deposits or investment of its funds, the
7 treasurer or director of finance of such county or city may consider, in addition to the typical criteria, the investment activities of
8 qualifying institutions ~~which that~~ enhance the supply of, or accessibility to, affordable housing within the jurisdiction. No more
9 than fifty percent of the funds of the county or city, calculated on the basis of the average daily balance of the general fund
10 during the previous fiscal year, may be deposited or invested by considering such investment activities as a factor in the award
11 of a contract. A qualifying institution shall meet the provisions of the Virginia Security for Public Deposits Act (~~§ 2-1-359- 2.2-~~
12 ~~4400 et seq.~~) and all local terms and conditions for security, liquidity and rate of return.

13 | B. Notwithstanding any other provision of law, any high-growth locality as described in subsection A of § 15.2-2298
14 may provide by resolution that in determining the award of any contract for time deposits or investment of its funds, the
15 treasurer or director of finance of such county or city may consider, in addition to the typical criteria, the investment activities of
16 qualifying institutions ~~which that~~ enhance and preserve agricultural uses and agribusiness activities within the jurisdiction. No
17 more than fifty percent of the funds of the county or city, calculated on the basis of the average daily balance of the general
18 fund during the previous fiscal year, may be deposited or invested by considering such investment activities as a factor in the
19 award of a contract. A qualifying institution shall meet the provisions of the Virginia Security for Public Deposits Act (~~§ 2-1-359~~
20 ~~2.2-4400 et seq.~~) and all local terms and conditions for security, liquidity and rate of return.

21 **DRAFTING NOTE:** Technical corrections only.

22 | ~~§ 11-47.3 2.2-4327. (Effective July 1, 2003)~~ Preference for community reinvestment activities in contracts for
23 investment of funds.

24 | Notwithstanding any other provision of law, any county or city ~~which that~~ is authorized to and has established
25 affordable housing programs pursuant to (i) ~~§ 15.1-491.8 15.2-2304~~ or ~~§ 15.1-491.9 15.2-2305~~ or (ii) a local ordinance adopted
26 prior to December 31, 1988, may provide by resolution that in determining the award of any contract for time deposits or
27 investment of its funds, the treasurer or director of finance of such county or city may consider, in addition to the typical
28 criteria, the investment activities of qualifying institutions ~~which that~~ enhance the supply of, or accessibility to, affordable
29 housing within the jurisdiction. No more than fifty percent of the funds of the county or city, calculated on the basis of the
30 average daily balance of the general fund during the previous fiscal year, may be deposited or invested by considering such
31 investment activities as a factor in the award of a contract. A qualifying institution shall meet the provisions of the Virginia
32 Security for Public Deposits Act (~~§ 2-1-359- 2.2-4400 et seq.~~) and all local terms and conditions for security, liquidity and rate
33 of return.

34 **DRAFTING NOTE:** Technical corrections only.

35 | ~~§ 11-47.4 2.2-4328.~~ Preference for local products and firms; applicability.

36 | A. The governing body of a county, city or town may, in the case of a tie bid, give preference to goods, services and
37 construction produced in such locality or provided by persons, firms or corporations having principal places of business in ~~such~~
38 ~~the locality~~, if such a choice is available; otherwise the tie shall be decided by lot, unless ~~§ 11-47 shall apply 2.2-4324 applies.~~

39 | B. The provisions of this section shall apply only to bids submitted pursuant to a written Invitation to Bid.

40 **DRAFTING NOTE:** Technical corrections only.

41 | ~~§ 11-47.5 2.2-4329. (Effective until July 1, 2002)~~ ~~Procurement of~~ Preference certain information technology-related
42 goods or services in high unemployment localities.

43 | In awarding contracts for the procurement of information technology-related goods or services, other than
44 professional services or construction, state agencies, departments and institutions may give consideration to the beneficial
45 effect of the award on local employment in localities where the average unemployment rate is 100 percent higher than the final
46 statewide unemployment average for the preceding calendar year, as determined by the Virginia Employment Commission. If
47 stated in the terms and conditions of the solicitation, state agencies, departments and institutions may award evaluation points,
48 not to exceed the difference between the state unemployment average and that of the locality, to contractors located in, or
49 performing contracted functions from, such high unemployment locality. In no event, however, shall such evaluation points
50 exceed the points awarded for the price of such goods or services.

51 | For the purposes of this section, "information technology-related goods or services" include telecommunications,
52 automated data processing, word processing, the global information system known as the Internet, management information
53 systems, and related information, equipment, goods, and services, other than professional services or construction.

54 **DRAFTING NOTE:** Technical corrections only.

55 | ~~§ 11-48. Participation of small businesses and businesses owned by women and minorities.~~

1 All public bodies shall establish programs consistent with all provisions of this chapter to facilitate the participation of
2 small businesses and businesses owned by women and minorities in procurement transactions. Such programs shall be in
3 writing, and shall include cooperation with the Department of Minority Business Enterprise, the United States Small Business
4 Administration, and other public or private agencies. State agencies shall submit annual progress reports on minority business
5 procurement to the Department of Minority Business Enterprise.

6 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-4310 supra.

7 §-44-54 ~~2.2-4330~~. Withdrawal of bid due to error.

8 A. A bidder for a public construction contract, other than a contract for construction or maintenance of public
9 highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a
10 mistake therein in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to
11 a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of
12 work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission
13 can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in
14 the preparation of the bid sought to be withdrawn.

15 If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid
16 would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic
17 error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which that
18 shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in
19 the preparation of the bid sought to be withdrawn.

20 One of the following procedures for withdrawal of a bid shall be selected by the public body and stated in the
21 advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business
22 days after the conclusion of the bid opening procedure and shall submit original work papers with such notice; or (ii) the bidder
23 shall submit to the public body or designated official his original work papers, documents and materials used in the preparation
24 of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person
25 or by registered mail at or prior to the time fixed for the opening of bids. In either instance, ~~such the~~ work papers, documents
26 and materials may be considered as trade secrets or proprietary information subject to the conditions of subsection ~~D-F~~ of §
27 ~~44-52 2.2-4342~~. The bids shall be opened one day following the time fixed by the public body for the submission of bids.
28 Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined
29 herein and withdraw his bid. The contract shall not be awarded by the public body until the two-hour period has elapsed. ~~Such~~
30 The mistake shall be proved only from the original work papers, documents and materials delivered as required herein.

31 B. A public body may establish procedures for the withdrawal of bids for other than construction contracts.

32 C. No bid ~~may shall~~ be withdrawn under this section when the result would be the awarding of the contract on
33 another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

34 D. If a bid is withdrawn ~~under the authority of~~ in accordance with this section, the lowest remaining bid shall be
35 deemed to be the low bid.

36 E. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform
37 any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly
38 or indirectly, from the performance of the project for which the withdrawn bid was submitted.

39 F. If the public body denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in
40 writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a
41 responsible and responsive bidder.

42 **DRAFTING NOTE:** Technical corrections only.

43 §-44-43 ~~2.2-4331~~. Contract pricing arrangements.

44 A. Except as prohibited ~~herein in this section~~, public contracts may be awarded on a fixed price or cost
45 reimbursement basis, or on any other basis that is not prohibited.

46 B. Except in case of emergency affecting the public health, safety or welfare, no public contract shall be awarded on
47 the basis of cost plus a percentage of cost.

48 C. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or
49 incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims,
50 shall not be prohibited by this section.

51 **DRAFTING NOTE:** Technical corrections only.

52 §-44-46.3 ~~2.2-4332~~. Workers' compensation requirements for construction contractors and subcontractors.

53 A. No contractor shall perform any work on a construction project of a department, agency or institution of the
54 Commonwealth or any of its political subdivisions unless he (i) has obtained, and continues to maintain for the duration of ~~such~~
55 the work, ~~such~~ workers' compensation coverage ~~as may be required~~ pursuant to the provisions of Chapter 8 (§ 65.2-800 et

seq.) of Title 65.2 and (ii) provides prior to the award of contract, on a form furnished by the department, agency, or institution of the Commonwealth or political subdivision thereof, evidence of such coverage.

B. The Department of General Services shall provide the form to such departments, agencies, ~~or institutions, and political subdivisions.~~ Failure of a department, agency ~~or institution or political subdivision~~ to provide ~~such the~~ form prior to the award of contract shall waive the requirements of clause (ii) of subsection A.

C. No subcontractor shall perform any work on a construction project of a department, agency or institution of the Commonwealth unless he has obtained, and continues to maintain for the duration of such work, ~~such workers' compensation coverage as may be required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2.~~

~~D. The provisions of this section shall apply to localities on and after January 1, 1994, and the Department of General Services shall furnish the forms to localities.~~

DRAFTING NOTE: Technical corrections only.

~~§-41-56.2.2-4333.~~ Retainage on construction contracts.

A. In any public contract for construction ~~which that~~ provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with ~~not no~~ more than five percent being retained to ~~assure ensure~~ faithful performance of the contract. All amounts withheld may be included in the final payment.

B. Any subcontract for a public project ~~which that~~ provides for similar progress payments shall be subject to the ~~same limitations~~ provisions of this section.

DRAFTING NOTE: Technical corrections only.

~~§-41-56.1.2.2-4334.~~ Deposit of certain retained funds on certain contracts with local governments; penalty for failure to timely complete.

A. Any county, city, town or agency thereof or other political subdivision of the Commonwealth when contracting directly with contractors for public contracts of \$200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations where portions of the contract price are to be retained, shall include in the Bid Proposal an option for the contractor to use an escrow account procedure for utilization of the political subdivision's retainage funds by so indicating in the space provided in the proposal documents. In the event the contractor elects to use the escrow account procedure, the ~~"Escrow Agreement"~~ escrow agreement form included in the Bid Proposal and Contract shall be executed and submitted to the political subdivision within fifteen calendar days after notification. If the ~~"Escrow Agreement"~~ escrow agreement form is not submitted within the fifteen-day period, the contractor shall forfeit his rights to the use of the escrow account procedure.

B. In order to have retained funds paid to an escrow agent, the contractor, the escrow agent, and the surety shall execute an ~~"Escrow Agreement"~~ escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth. The ~~"Escrow Agreement"~~ escrow agreement and all regulations ~~promulgated adopted~~ by the political subdivision entering into the contract shall be substantially the same as that used by the Commonwealth of Virginia Department of Transportation.

C. This section shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.

D. Any such public contract for construction with a county, city, town or agency thereof or other political subdivision of the Commonwealth, which includes payment of interest on retained funds, may require a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

E. Any subcontract for such public project ~~which that~~ provides for similar progress payments shall be subject to the provisions of this section.

DRAFTING NOTE: Technical corrections only.

~~§-41-56.2.2.2-4335.~~ Public construction contract provisions barring damages for unreasonable delays declared void.

A. Any provision contained in any public construction contract ~~entered into on or after July 1, 1991,~~ that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent ~~such the~~ delay is caused by acts or omissions of the public body, its agents or employees and due to causes within their control ~~is against public policy and is shall be void and unenforceable as against public policy.~~

B. Subsection A shall not be construed to render void any provision of a public construction contract that:

1. Allows a public body to recover that portion of delay costs caused by the acts or omissions of the contractor, or its subcontractors, agents or employees;

2. Requires notice of any delay by the party claiming the delay;
3. Provides for liquidated damages for delay; or
4. Provides for arbitration or any other procedure designed to settle contract disputes.

C. A contractor making a claim against a public body for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract shall be liable to the public body and shall pay it for a percentage of all costs incurred by the public body in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim ~~which that~~ is determined through litigation or arbitration to be false or to have no basis in law or in fact.

DRAFTING NOTE: Technical corrections only.

~~§ 41-57~~ 2.2-4336. Bid bonds.

A. Except in cases of emergency, all bids or proposals for construction contracts in excess of \$100,000 shall be accompanied by a bid bond from a surety company selected by the bidder ~~which that~~ is ~~legally~~ authorized to do business in Virginia, as a guarantee that if the contract is awarded to ~~such the bidder, that bidder he~~ will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

B. No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid, or (ii) the face amount of the bid bond.

C. Nothing in this section shall preclude a public body from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000.

DRAFTING NOTE: Technical corrections only.

~~§ 41-58~~ 2.2-4337. Performance and payment bonds.

A. Upon the award of any public construction contract exceeding \$100,000 awarded to any prime contractor, ~~such~~ the contractor shall furnish to the public body the following bonds:

1. A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

2. A payment bond in the sum of the contract amount. ~~Such~~ The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in ~~the prosecution furtherance~~ the prosecution furtherance of the work provided for in ~~such the contract~~, and shall be conditioned upon the prompt payment for all ~~such material materials~~ furnished or labor supplied or performed in the ~~prosecution furtherance~~ prosecution furtherance of the work.

"Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

B. Each of ~~such the~~ bonds shall be executed by one or more surety companies selected by the contractor ~~which that~~ are ~~legally~~ authorized to do business in Virginia.

C. If the public body is the Commonwealth of Virginia, or any agency or institution thereof, ~~such the~~ bonds shall be payable to the Commonwealth of Virginia, naming also the agency or institution thereof. Bonds required for the contracts of other public bodies shall be payable to such public body.

D. Each of the bonds shall be filed with the public body ~~which that~~ awarded the contract, or a designated office or official thereof.

E. Nothing in this section shall preclude a public body from requiring payment or performance bonds for construction contracts below \$100,000.

F. Nothing in this section shall preclude ~~such the~~ contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts ~~which that~~ are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

DRAFTING NOTE: Technical corrections only.

~~§ 41-64~~ 2.2-4338. Alternative forms of security.

A. In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

B. If approved by the Attorney General in the case of state agencies, or the attorney for the political subdivision in the case of political subdivisions, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the public body equivalent to a corporate surety's bond.

C. The provisions of ~~subsections A and B~~ this section shall not apply to the Department of Transportation.

1 **DRAFTING NOTE:** Technical corrections only.

2 | §-11-62 2.2-4339. Bonds on other than construction contracts.

3 | A public body may require bid, payment, or performance bonds for contracts for goods or services if provided in the
4 Invitation to Bid or Request for Proposal.

5 **DRAFTING NOTE:** Technical corrections only.

6 | §-11-59 2.2-4340. Action on performance bond.

7 | No action against the surety on a performance bond shall be brought unless within five years after completion of the
8 work on the project to the satisfaction of the Department of Transportation, in cases where the public body is the Department
9 of Transportation, or, in all other cases, within one year after (i) completion of the contract, including the expiration of all
10 warranties and guarantees, or (ii) discovery of the defect or breach of warranty, ~~if the action be for such, in all other cases that~~
11 ~~gave rise to the action.~~

12 **DRAFTING NOTE:** Technical corrections only.

13 | §-11-60 2.2-4341. Actions on payment bonds.

14 | A. Subject to the provisions of subsection B hereof, any claimant who has performed labor or furnished material in
15 accordance with the contract documents in ~~the prosecution furtherance~~ of the work provided in any contract for which a
16 payment bond has been given, and who has not been paid in full ~~therefor~~ before the expiration of ninety days after the day on
17 which ~~such the~~ claimant performed the last of ~~such the~~ labor or furnished the last of ~~such the~~ materials for which he claims
18 payment, may bring an action on ~~such the~~ payment bond to recover any amount due him for ~~such the~~ labor or material, ~~and~~
19 ~~may prosecute such action to final judgment and have execution on the judgment.~~ The obligee named in the bond need not be
20 named a party to ~~such the~~ action.

21 | B. Any claimant who has a direct contractual relationship with any subcontractor from whom the contractor has not
22 required a subcontractor payment bond under subsection F of § 11-58 F- 2.2-4337 but who has no contractual relationship,
23 express or implied, with ~~such the~~ contractor, may bring an action on the contractor's payment bond only if he has given written
24 notice to ~~such the~~ contractor within 180 days from the day on which the claimant performed the last of the labor or furnished
25 the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of
26 the person for whom the work was performed or to whom the material was furnished. Any claimant who has a direct
27 contractual relationship with a subcontractor from whom the contractor has required a subcontractor payment bond under
28 subsection F of § 11-58 F- 2.2-4337 but who has no contractual relationship, express or implied, with such contractor, may
29 bring an action on the subcontractor's payment bond. Notice to the contractor shall be served by registered or certified mail,
30 postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the
31 transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall
32 not be subject to the time limitations stated in this subsection.

33 | C. Any action on a payment bond ~~must shall~~ be brought within one year after the day on which the person bringing
34 such action last performed labor or last furnished or supplied materials.

35 **DRAFTING NOTE:** Technical corrections only.

36 | §-11-52 2.2-4342. Public inspection of certain records.

37 | A. Except as provided ~~herein in this section~~, all proceedings, records, contracts and other public records relating to
38 procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in
39 accordance with the Virginia Freedom of Information Act (~~§ 2-1-340- 2.2-3700~~ et seq.).

40 | B. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open
41 to public inspection.

42 | C. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records
43 within a reasonable time after the opening of all bids but prior to award, except in the event that the public body decides not to
44 accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of
45 the contract.

46 | ~~C4D.~~ Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records
47 within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the
48 event that the public body decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records
49 shall be open to public inspection only after award of the contract.

50 | ~~C2E.~~ Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions
51 to ensure the security and integrity of the records.

52 | ~~D.F.~~ Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a
53 procurement transaction or prequalification application submitted pursuant to subsection B of § ~~11-46 2.2-4317~~ shall not be
54 subject to ~~public disclosure under~~ the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the bidder, offeror or
55 contractor ~~must shall~~ (i) invoke the protections of this section prior to or upon submission of the data or other materials, ~~and~~
56 ~~must~~ (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

1 DRAFTING NOTE: Technical corrections only.

2 Article 3.

3 Exemptions and Limitations.

4 § 2.2-4343. Exemption from operation of chapter for certain transactions.

5 A. The provisions of this chapter shall not apply to:

6 1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 et seq.)
7 of Title 62.1, provided the Authority implements, by policy or regulation adopted by the Board of Commissioners and approved
8 by the Department of General Services, procedures to ensure fairness and competitiveness in the procurement of goods and
9 services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such
10 policies and procedures meeting the requirements remain in effect.

11 2. The Virginia Retirement System for selection of services related to the management, purchase or sale of
12 authorized investments, including but not limited to actuarial services. Selection of these services shall be governed by the
13 standard set forth in § 51.1-124.30.

14 3. The State Treasurer in the selection of investment management services related to the external management of
15 funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that
16 are set by the Commonwealth Treasury Board and approved by the Department of General Services.

17 4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for
18 sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

19 5. The University of Virginia in the selection of services related to the management and investment of its endowment
20 funds. However, selection of these services shall be governed by the Uniform Management of Institutional Funds Act (§ 55-
21 268.1 et seq.) as required by § 23-76.1.

22 6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and
23 administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of
24 authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the
25 standard set forth in § 23-38.80.

26 7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail
27 outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

28 8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted
29 therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. The exemption shall be
30 in writing and kept on file with the agency's disbursement records.

31 9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2- 4305, 2.2- 4308,
32 2.2- 4315, 2.2- 4311, 2.2- 4330, 2.2- 4333 through 2.2-4338, and 2.2-4367 through 2.2-4377.

33 10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and
34 procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by
35 such governing body and its agencies, except as stipulated in subdivision 12.

36 This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures
37 meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide
38 for incentive contracting which offers a contractor whose bid is accepted the opportunity to share in any cost savings realized
39 by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the
40 project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a
41 separate cost and shall not be calculated as part of any cost savings.

42 11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures
43 which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school
44 board, except as stipulated in subdivision 12.

45 This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures
46 meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school
47 division from any centralized purchasing ordinance duly adopted by a local governing body.

48 12. Notwithstanding the exemptions set forth in subdivisions 9 through 12, the provisions of subsections C and D of §
49 2.2-4343, §§ 2.2-4305, 2.2-4308, 2.2-4317, 2.2-4315, 2.2-4311, 2.2-4330, 2.2-4333 through 2.2-4338, and 2.2-4367 through
50 2.2-4377 shall apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500 in the
51 Commonwealth.

52 The method for procurement of professional services set forth in subdivision 3. a. of § 2.2-4301 in the definition of
53 competitive negotiation shall also apply to all counties, cities and school divisions, and to all towns having a population greater
54 than 3,500, where the cost of the professional service is expected to exceed \$30,000 in the aggregate or for the sum of all
55 phases of a contract or project. A school board that makes purchases through its public school foundation or purchases
56 educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2
57 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the
58 provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body which is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators which are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subdivision 1 is § 11-35 K, subdivision 2 is § 11-35 H, subdivision 3 is § 11-35 N, subdivision 4 is § 11-40.4, subdivision 5 is § 11-35 M, subdivision 6 is § 11-35 L, subdivision 7 is § 11-35 J, subdivision 8 is § 11-40.2, subdivision 9 is § 11-35 C, subdivisions 10 and 11 are § 11-35 D, subdivision 12 is § 11-35 E, subdivision 13 is § 11-40 C, subdivision 14 is 11-35 I, and subsection B is § 11-39.

§ 2.2-4344. Exemptions from competition for certain transactions.

A. Any public body may enter into contracts without competition for:

1. The purchase of goods or services that are produced or performed by:

a. Persons, or in schools or workshops, under the supervision of the Virginia Department for the Visually Handicapped; or

b. Nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped.

2. The purchase of legal services, provided that the pertinent provisions of Chapter 5 (§ 2.2-500 et seq.) of this title remain applicable, or expert witnesses or other services associated with litigation or regulatory proceedings.

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

C. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, with members selected pursuant to such article, may enter into contracts without competition with respect to the exercise of any of its powers permitted by § 15.2-5158. However, this exception shall not apply in cases where any public funds other than special assessments and incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such contract.

D. The inspector General for Mental Health, Mental Retardation and Substance Abuse Services may enter into contracts without competition to obtain the services of licensed health care professionals or other experts to assist in carrying out the duties of the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subdivision A₁ is § 11-45 A, subdivision A₂ is § 11-45 B, subsection B is § 11-45 D, subsection C is § 11-45 L, and subsection D is § 11-45 W.

§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

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

2. (Effective until July 1, 2003). The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

1 3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-146 and 30-148
2 publish the Code of Virginia or the Virginia Administrative Code.

3 4. The Department of Alcoholic Beverage Control for the purchase of alcoholic beverages.

4 5. The Department for the Aging, for the administration of elder rights programs, with (i) nonprofit Virginia
5 corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code with statewide experience in Virginia
6 in conducting a state long-term care ombudsman program or (ii) designated area agencies on aging.

7 6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health care services with
8 Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operating as clinics for
9 the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally
10 qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or
11 without charge; or (c) contracts with laboratories providing cytology and related services if competitive sealed bidding and
12 competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the
13 Commissioner of Health.

14 7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and support of its
15 production facilities, provided the procurement is accomplished using procedures that ensure as efficient use of funds as
16 practicable and, at a minimum, includes obtaining telephone quotations. Such procedures shall require documentation of the
17 basis for awarding contracts under this section.

18 8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the provisions of
19 Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages
20 and souvenirs at such facilities.

21 9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of tourism through
22 marketing with private entities provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be
23 realized by the Foundation and such agreements or contracts are based on competitive principles.

24 10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as amended, of
25 the Acts of Assembly of 1966.

26 11. The Hospital Authority of Norfolk in the exercise of any power conferred under Chapter 53 (§ 15.2-5300 et seq.)
27 of Title 15.2. The Authority shall not discriminate against any person on the basis of race, color, religion, national origin, sex,
28 pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

29 12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of Assembly of 2000

30 13. Public bodies for insurance or electric utility services if purchased through an association of which it is a mem
31 if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing clos
32 relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use
33 of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the
34 public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the
35 public. The writing shall document the basis for this determination.

36 14. Public bodies administering public assistance programs as defined in § 63.1-87, the fuel assistance program,
37 community services boards as defined in § 37.1-1, or any public body purchasing services under the Comprehensive Services
38 Act for At-Risk Youth and Families (§ 2.1-745 et seq.) or the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et
39 seq.) for goods or personal services for direct use by the recipients of such programs if the procurement is made for an
40 individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted
41 from the requirements of § 2.2-4303.

42 B. No contract for the construction of any building or for an addition to or improvement of an existing building by any
43 local government or subdivision of local government for which state funds of not more than \$30,000 in the aggregate or for the
44 sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part
45 of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided
46 under of subsection D of § 2.2-4303. The procedure for the advertising for bids or for proposals and for letting of the contract
47 shall conform, mutatis mutandis, to this chapter.

48 **DRAFTING NOTE:** Technical corrections. Subsection A of this proposed section is comprised of the following existing
49 sections: subdivision 1 is § 11-45 I, subdivision 2 is § 11-45 K, subdivision 3 is § 11-45 J, subdivision 4 is § 11-45 E,
50 subdivision 5 is § 11-45 U, subdivision 6 is § 11-45 O, T, and H, respectively, subdivision 7 is § 11-45 M, subdivision 8 is § 11-
51 45 N, subdivision 9 is § 11-45 P, and subdivision 10 is § 11-45 R, subdivision 11 is § 11-45 S, subdivision 12 is § 11-45 V,
52 subdivision 13 is § 11-45 G, and subdivision 14 is § 11-45 F, subsection B is § 11-41.1.

53 § 2.2-4346. Other exemptions for certain transactions.

54 The following public bodies may enter into contracts as provided in this section.

55 A. Contracts for certain essential election materials and services are exempted from the requirements of Articles 1 (§
56 2.2-4300 et seq.), 2 (§ 2.2-4303 et seq.), and 5 (§ 2.2-4357 et seq.) of this chapter pursuant to § 24.2-602.

57 B. Any local school board may authorize any of its public schools or its school division to enter into contrac
58 providing that caps and gowns, photographs, class rings, yearbooks and graduation announcements will be available
59 purchase or rental by students, parents, faculty or other persons using nonpublic money through the use of competi.

1 negotiation as provided in this chapter; competitive sealed bidding is not necessarily required for such contracts. The
2 Superintendent of Public Instruction may provide assistance to public school systems regarding this chapter and other related
3 laws.

4 C. The Virginia Racing Commission may designate an entity to administer and promote the Virginia Breeders Fund
5 created pursuant to § 59.1-372 without competitive procurement.

6 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A
7 is § 11-40.3, subsection B is § 11-41 H, and subsection C is 11-45 Q.

8 Article 4.

9 Prompt Payment.

10 ~~§ 11-62.4 2.2-4347.~~ Definitions.

11 As used in this article, unless the context ~~clearly shows otherwise, the term or phrase~~ requires a different meaning:

12 "Contractor" means the entity that has a direct contract with any "state agency" as defined herein, or any agency of
13 local government as discussed in ~~§ 11-62.40 2.2-4352.~~

14 "Debtor" means any individual, business, or group having a delinquent debt or account with any state agency ~~which~~
15 that obligation has not been satisfied or set aside by court order or discharged in bankruptcy.

16 "Payment date" means either (i) the date on which payment is due under the terms of a contract for provision of
17 goods or services; or (ii) if such date has not been established by contract, (a) thirty days after receipt of a proper invoice by
18 the state agency or its agent or forty-five days after receipt by the local government or its agent responsible under the contract
19 for approval of such invoices for the amount of payment due, or (b) thirty days after receipt of the goods or services by the
20 state agency or forty-five days after receipt by the local government, whichever is later.

21 "State agency" means any authority, board, department, instrumentality, institution, agency or other unit of state
22 government. The term shall not include any county, city or town or any local or regional governmental authority.

23 "Subcontractor" means any entity that has a contract to supply labor or materials to the contractor to whom the
24 contract was awarded or to any subcontractor in the performance of the work provided for in such contract.

25 **DRAFTING NOTE:** Technical corrections. In definition of prompt payment, language has been added to comport with
26 proposed § 2.2-4352 relating to prompt payment for localities.

27 ~~§ 11-62.9 2.2-4348.~~ Exemptions.

28 The provisions of this article shall not apply to the late payment provisions contained in any public utility tariffs
29 prescribed by the State Corporation Commission.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 11-62.8 2.2-4349.~~ Retainage to remain valid.

32 Notwithstanding the provisions of this article, the provisions of ~~§ 11-56 2.2-4333~~ relating to retainage shall remain
33 valid.

34 **DRAFTING NOTE:** Technical corrections only.

35 ~~§ 11-62.2 2.2-4350.~~ Prompt payment of bills by state agencies.

36 A. Every state agency that acquires goods or services, or conducts any other type of contractual business with
37 nongovernmental, privately owned enterprises shall promptly pay for the completely delivered goods or services by the
38 required payment date.

39 Payment is shall be deemed to have been made when offset proceedings have been instituted, as authorized under
40 the Virginia Debt Collection Act (~~§ 2.1-726 2.2-4800~~ et seq.).

41 B. Separate payment dates may be specified for contracts under which goods or services are provided in a series of
42 partial deliveries or executions to the extent that such contract provides for separate payment for such partial delivery or
43 execution.

44 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A
45 is § 11-62.2 and subsection B is § 11-62.3.

46 ~~§ 11-62.3. Separate payment dates.~~

47 ~~Separate payment dates may be specified for contracts under which goods or services are provided in a series of~~
48 ~~partial deliveries or executions to the extent that such contract provides for separate payment for such partial delivery or~~
49 ~~execution.~~

50 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-4350 supra.

51 ~~§ 11-62.4 2.2-4351.~~ Defect or impropriety in the invoice or goods and/or services received.

1 In instances where there is a defect or impropriety in an invoice or in the goods or services received, the state agency
2 shall notify the supplier of the defect or impropriety, if ~~such the~~ defect or impropriety would prevent payment by the payment
3 date. The notice shall be sent within fifteen days after receipt of such the invoice or such the goods or services.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 11-62-10 2.2-4352.~~ Prompt payment of bills by localities.

6 Every agency of local government that acquires goods or services, or conducts any other type of contractual
7 business with a nongovernmental, privately owned enterprise, shall promptly pay for the completed delivered goods or
8 services by the required payment date. The required payment date shall be either: (i) the date on which payment is due under
9 the terms of the contract for the provision of ~~such the~~ goods or services; or (ii) if ~~such a~~ date is not established by contract, not
10 more than forty-five days after goods or services are received or not more than forty-five days after the invoice is rendered,
11 whichever is later.

12 Separate payment dates may be specified for contracts under which goods or services are provided in a series of
13 partial executions or deliveries to the extent that the contract provides for separate payment for partial execution or delivery.

14 Within twenty days after the receipt of the invoice or goods or services, the agency shall notify the ~~business concern~~
15 supplier of any defect or impropriety ~~which that~~ would prevent payment by the payment date.

16 Unless otherwise provided under the terms of the contract for the provision of goods or services, every agency that
17 fails to pay by the payment date shall pay any finance charges assessed by the ~~business concern supplier which that do~~ shall
18 not exceed one percent per month.

19 The provisions of this section shall not apply to the late payment provisions in any public utility tariffs or public utility
20 negotiated contracts.

21 **DRAFTING NOTE:** Technical corrections only.

22 ~~§ 11-62-6 2.2-4353.~~ Date of postmark deemed to be date payment is made.

23 In those cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is
24 made for purposes of this chapter.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§ 11-62-11 2.2-4354.~~ Payment clauses to be included in contracts.

27 Any contract awarded by any state agency, or any contract awarded by any agency of local government in
28 accordance with ~~§ 11-62-10 2.2-4352~~, shall include:

29 1. A payment clause ~~which that~~ obligates the contractor to take one of the two following actions within seven days
30 after receipt of amounts paid to the contractor by the state agency or local government for work performed by the
31 subcontractor under that contract:

32 a. Pay the subcontractor for the proportionate share of the total payment received from the agency attributable to the
33 work performed by the subcontractor under that contract; or

34 b. Notify the agency and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's
35 payment with the reason for nonpayment.

36 2. A payment clause that requires (i) individual contractors to provide their social security numbers and (ii)
37 proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

38 3. An interest clause that obligates the contractor to pay interest to the subcontractor on all amounts owed by the
39 contractor that remain unpaid after seven days following receipt by the contractor of payment from the state agency or agency
40 of local government for work performed by the subcontractor under that contract, except for amounts withheld as allowed in
41 subdivision 1 ~~b of this section~~.

42 4. An interest rate clause stating, "Unless otherwise provided under the terms of this contract, interest shall accrue at
43 the rate of one percent per month."

44 Any such contract awarded shall further require the contractor to include in each of its subcontracts a provision
45 requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to
46 each lower-tier subcontractor.

47 A contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section
48 ~~may shall~~ not be construed to be an obligation of the state agency or agency of local government. A contract modification ~~may~~
49 shall not be made for the purpose of providing reimbursement for ~~such the~~ interest charge. A cost reimbursement claim ~~may~~
50 shall not include any amount for reimbursement for ~~such the~~ interest charge.

51 **DRAFTING NOTE:** Technical corrections only.

52 ~~§ 11-62-5 2.2-4355.~~ Interest penalty; exceptions.

53 A. Interest shall accrue, at the rate determined pursuant to subsection B ~~of this section~~, on all amounts owed by a
54 state agency to a vendor ~~which that~~ remain unpaid after seven days following the payment date, ~~provided, that, However,~~

nothing in this section shall affect any contract providing for a different rate of interest, or for the payment of interest in a different manner.

B. The rate of interest charged a state agency pursuant to subsection A ~~of this section~~ shall be the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the publication entitled The Wall Street Journal. Whenever a split prime rate is published, the lower of the two rates ~~is to shall~~ be used. However, in no event shall the rate of interest charged exceed the rate of interest established pursuant to § 58.1-1812.

C. Notwithstanding subsection A ~~of this section~~, no interest penalty shall be charged when payment is delayed because of disagreement between a state agency and a vendor regarding the quantity, quality or time of delivery of goods or services or the accuracy of any invoice received for ~~such the~~ goods or services. The exception from the interest penalty provided by this ~~paragraph~~ subsection shall apply only to that portion of a delayed payment ~~which that~~ is actually the subject of ~~such a the~~ disagreement and shall apply only for the duration of ~~such the~~ disagreement.

D. This section shall not apply to ~~§-44-56 2.2-4333~~ pertaining to retainage on construction contracts, during the period of time prior to the date the final payment is due. Nothing contained herein shall prevent a contractor from receiving interest on such funds under an approved escrow agreement.

E. Notwithstanding subsection A ~~of this section~~, no interest penalty shall be paid to any debtor on any payment, or portion thereof, withheld pursuant to the Comptroller's Debt Setoff Program, as authorized by the Virginia Debt Collection Act (~~§-2-1-726 2.2-4800~~ et seq.), commencing with the date the payment is withheld. If, as a result of an error, a payment or portion thereof is withheld, and it is determined that at the time of setoff no debt was owed to the Commonwealth, then interest shall accrue at the rate determined pursuant to subsection B ~~of this section~~ on amounts withheld ~~which that~~ remain unpaid after seven days following the payment date.

DRAFTING NOTE: Technical corrections only.

~~§-44-62-7 2.2-4356~~. Comptroller to file annual report.

The Comptroller shall file an annual report with the Governor, the Senate Committee on Finance ~~Committee~~, the House Committees on Finance ~~Committee~~ and the House Appropriations Committee on November 1 for the preceding fiscal year including (i) the number and dollar amounts of late payments by departments, institutions and agencies, (ii) the total amount of interest paid and (iii) specific steps being taken to reduce the incidence of late payments.

DRAFTING NOTE: Technical corrections only.

Article 5.

Remedies.

~~§-44-63 2.2-4357~~. Ineligibility.

A. Any bidder, offeror or contractor refused permission to participate, or disqualified from participation, in public contracts shall be notified in writing. Prior to the issuance of a written determination of disqualification or ineligibility, the public body shall (i) notify the bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the bidder an opportunity to inspect any documents ~~which that~~ relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

Within ten business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The public body shall issue its written determination of disqualification or ineligibility based on all information in the possession of the public body, including any rebuttal information, within five business days of the date the public body received such rebuttal information.

If the evaluation reveals that the bidder, offeror or contractor should be allowed permission to participate in the public contract, the public body shall cancel the proposed disqualification action. If the evaluation reveals that the bidder should be refused permission to participate, or disqualified from participation, in the public contract, the public body shall so notify the bidder, offeror or contractor. ~~Such The~~ notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten days after receipt of the notice by invoking administrative procedures meeting the standards of ~~§-44-74 2.2-4365~~, if available, or in the alternative by instituting legal action as provided in ~~§-44-70 2.2-4364~~.

B. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Constitution of Virginia, ~~statutes~~ applicable state law or regulations, the sole relief shall be restoration of eligibility.

DRAFTING NOTE: Technical corrections only.

~~§-44-64 2.2-4358~~. Appeal of denial of withdrawal of bid.

A. A decision denying withdrawal of bid under the provisions of ~~§-44-54 2.2-4330~~ shall be final and conclusive unless the bidder appeals the decision within ten days after receipt of the decision by invoking administrative procedures meeting the standards of ~~§-44-74 2.2-4365~~, if available, or in the alternative by instituting legal action as provided in ~~§-44-70 2.2-4364~~.

B. If no bid bond was posted, a bidder refused withdrawal of a bid under the provisions of ~~§-44-54 2.2-4330~~, prior to appealing, shall deliver to the public body a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

1 C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not (i) an honest exercise
2 discretion, but rather was arbitrary or capricious or ~~not (ii)~~ in accordance with the Constitution of Virginia, applicable state
3 or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.

4 **DRAFTING NOTE:** Technical corrections. The enumeration of the basis for relief in subsection C was done for clarification
5 and consistency within this article.

6 §-41-65 2.2-4359. Determination of nonresponsibility.

7 A. Following public opening and announcement of bids received on an Invitation to Bid, the public body shall
8 evaluate the bids in accordance with element 4 of the definition of "Competitive sealed bidding" in §-41-37 2.2-4301. At the
9 same time, the public body shall determine whether the apparent low bidder is responsible. If the public body so determines,
10 then it may proceed with an award in accordance with element 5 of the definition of "Competitive sealed bidding" in §-41-37
11 2.2-4301. If the public body determines that the apparent low bidder is not responsible, it shall proceed as follows:

12 1. Prior to the issuance of a written determination of nonresponsibility, the public body shall (i) notify the apparent low
13 bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the
14 apparent low bidder an opportunity to inspect any documents ~~which~~that relate to the determination, if so requested by the
15 bidder within five business days after receipt of the notice.

16 2. Within ten business days after receipt of the notice, the bidder may submit rebuttal information challenging the
17 evaluation. The public body shall issue its written determination of responsibility based on all information in the possession of
18 the public body, including any rebuttal information, within five business days of the date the public body received ~~such~~the
19 rebuttal information. At the same time, the public body shall notify, with return receipt requested, the bidder in writing of its
20 determination.

21 3. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision
22 within ten days after receipt of the notice by invoking administrative procedures meeting the standards of §-41-74 2.2-4365, if
23 available, or in the alternative by instituting legal action as provided in §-41-70 2.2-4364.

24 The provisions of this subsection shall not apply to procurements involving the prequalification of bidders and the
25 rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.

26 B. If, upon appeal pursuant to §-41-70 2.2-4364 or §-41-74 2.2-4365, it is determined that the decision of the public
27 body was not (i) an honest exercise of discretion, but rather was arbitrary or capricious or ~~not (ii)~~ in accordance with the
28 Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the invitation to Bid, and the award of
29 the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for
30 contract in question or directed award as provided in subsection A of §-41-70-A 2.2-4364 or both.

31 If it is determined that the decision of the public body was not an honest exercise of discretion, but rather was
32 arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or
33 conditions of the Invitation to Bid, and an award of the contract has been made, the relief shall be as set forth in subsection B
34 of §-41-66 2.2-4360.

35 C. A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed
36 under this section, and may not protest the award or proposed award under the provisions of §-41-66 2.2-4360.

37 D. Nothing contained in this section shall be construed to require a public body, when procuring by competitive
38 negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

39 **DRAFTING NOTE:** Technical corrections. The enumeration of the basis for relief in subsection B was done for clarification
40 and consistency within this article.

41 §-41-66 2.2-4360. Protest of award or decision to award.

42 A. Any bidder or offeror, who desires to protest the award or decision to award a contract shall submit ~~such~~the
43 protest in writing to the public body, or an official designated by the public body, no later than ten days after the award or the
44 announcement of the decision to award, whichever occurs first. Public notice of the award or the announcement of the
45 decision to award shall be given by the public body in the manner prescribed in the terms or conditions of the Invitation to Bid
46 or Request for Proposal. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who
47 desires to protest the award or decision to award such contract shall submit ~~such~~the protest in the same manner no later than
48 ten days after posting or publication of the notice of such contract as provided in §-41-44 2.2-4303. However, if the protest of
49 any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to
50 the procurement transaction ~~which~~that are subject to inspection under §-41-52 2.2-4342, then the time within which the
51 protest ~~must~~ shall be submitted shall expire ten days after those records are available for inspection by such bidder or offeror
52 under §-41-52 2.2-4342, or at such later time as provided in this section. No protest shall lie for a claim that the selected bidder
53 or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought.
54 The public body or designated official shall issue a decision in writing within ten days stating the reasons for the action taken.
55 This decision shall be final unless the bidder or offeror appeals within ten days of receipt of the written decision by invoking
56 administrative procedures meeting the standards of §-41-74 2.2-4365, if available, or in the alternative by instituting legal
57 action as provided in §-41-70 2.2-4364. Nothing in this subsection shall be construed to permit a bidder to challenge "
58 validity of the terms or conditions of the Invitation to Bid or Request for Proposal.

1 B. If prior to an award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be
2 a finding to that effect. The public body shall cancel the proposed award or revise it to comply with the law. If, after an award, it
3 is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided.

4 Where the award has been made but performance has not begun, the performance of the contract may be enjoined.
5 Where the award has been made and performance has begun, the public body may declare the contract void upon a finding
6 that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be
7 compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be
8 entitled to lost profits.

9 C. Where a public body, an official designated by that public body, or an appeals board determines, after a hearing
10 held following reasonable notice to all bidders, that there is probable cause to believe that a decision to award was based on
11 fraud or corruption or on an act in violation of Article 4-6 (§ ~~11-72-2.2-4367~~ et seq.) of this chapter, the public body,
12 designated official or appeals board may enjoin the award of the contract to a particular bidder.

13 **DRAFTING NOTE:** Technical corrections only.

14 § ~~11-67-2.2-4361~~. Effect of appeal upon contract.

15 Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in
16 accordance with this chapter shall not be affected by the fact that a protest or appeal has been filed.

17 **DRAFTING NOTE:** Technical corrections only.

18 § ~~11-68-2.2-4362~~. Stay of award during protest.

19 An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest
20 as provided in § ~~11-66-2.2-4360~~, or the filing of a timely legal action as provided in § ~~11-70-2.2-4364~~, no further action to
21 award the contract ~~will~~ shall be taken unless there is a written determination that proceeding without delay is necessary to
22 protect the public interest or unless the bid or offer would expire.

23 **DRAFTING NOTE:** Technical corrections only.

24 § ~~11-60-2.2-4363~~. Contractual disputes.

25 A. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after
26 final payment; ~~however~~. However, written notice of the contractor's intention to file such a claim shall have been be given at
27 the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract
28 from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or
29 acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

30 B. Each public body shall include in its contracts a procedure for consideration of contractual claims. Such
31 procedure, which may be incorporated into the contract by reference, shall establish a time limit for a final decision in writing
32 by the public body.

33 C. A contractor may not invoke administrative procedures meeting the standards of § ~~11-71-2.2-4365~~, if available, or
34 institute legal action as provided in § ~~11-70-2.2-4364~~, prior to receipt of the public body's decision on the claim, unless the
35 public body fails to render such decision within the time specified in the contract.

36 D. The decision of the public body shall be final and conclusive unless the contractor appeals within six months of
37 the date of the final decision on the claim by the public body by invoking administrative procedures meeting the standards of §
38 ~~11-71-2.2-4365~~, if available, or in the alternative by instituting legal action as provided in § ~~11-70-2.2-4364~~.

39 **DRAFTING NOTE:** Technical corrections only.

40 § ~~11-70-2.2-4364~~. Legal actions.

41 A. A bidder or offeror, actual or prospective, who is refused permission or disqualified from participation in bidding or
42 competitive negotiation, or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an
43 action in the appropriate circuit court challenging that decision, which shall be reversed only if the petitioner establishes that
44 the decision was not (i) an honest exercise of discretion, but rather was arbitrary or capricious ~~or not~~; (ii) in accordance with
45 the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid ~~or~~ (iii) in the
46 case of denial of prequalification, ~~that the decision to deny prequalification was not based upon the criteria for denial of~~
47 prequalification set forth in subsection B of § ~~11-46-2.2-4317~~. In the event the apparent low bidder, having been previously
48 determined by the public body to be not responsible in accordance with § ~~11-37-2.2-4301~~, is found by the court to be a
49 responsible bidder, the court may direct the public body to award the contract, ~~forthwith~~, to such bidder in accordance with the
50 requirements of this section and the Invitation to Bid.

51 B. A bidder denied withdrawal of a bid under § ~~11-64-2.2-4358~~ may bring an action in the appropriate circuit court
52 challenging that decision, which shall be reversed only if the bidder establishes that the decision of the public body was not (i)
53 an honest exercise of discretion, but rather was arbitrary or capricious or ~~not~~ (ii) in accordance with the Constitution of Virginia,
54 applicable state law or regulation, or the terms or conditions of the Invitation to Bid.

1 C. A bidder, offeror or contractor, or a potential bidder or offeror on a contract negotiated on a sole source or
2 emergency basis in the manner provided in ~~§ 41-44 2.2-4303~~, whose protest of an award or decision to award under ~~§ 41-66~~
3 2.2-4360 is denied, may bring an action in the appropriate circuit court challenging a proposed award or the award of a
4 contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not (i) an honest
5 exercise of discretion, but rather is arbitrary or capricious or ~~not~~ (ii) in accordance with the Constitution of Virginia, applicable
6 state law or regulation, or the terms and conditions of the Invitation to Bid or Request for Proposal.

7 D. If injunctive relief is granted, the court, upon request of the public body, shall require the posting of reasonable
8 security to protect the public body.

9 E. A contractor may bring an action involving a contract dispute with a public body in the appropriate circuit court.
10 Notwithstanding any other provision of law, the Comptroller shall not be named as a defendant in any action brought pursuant
11 to this chapter or ~~pursuant to~~ § 33.1-387, except for disputes involving contracts of the Office of the Comptroller or the
12 Department of Accounts.

13 F. A bidder, offeror or contractor need not utilize administrative procedures meeting the standards of ~~§ 41-74 2.2-~~
14 4365, if available, but if those procedures are invoked by the bidder, offeror or contractor, the procedures shall be exhausted
15 prior to instituting legal action concerning the same procurement transaction unless the public body agrees otherwise.

16 G. Nothing herein shall be construed to prevent a public body from instituting legal action against a contractor.

17 **DRAFTING NOTE:** Technical corrections. The enumeration of the basis for legal actions authorized in this section was done
18 for clarification and consistency within this article.

19 ~~§ 41-74 2.2-4365.~~ Administrative appeals procedure.

20 A. A public body may establish an administrative procedure for hearing (i) protests of a decision to award or an
21 award, (ii) appeals from refusals to allow withdrawal of bids, (iii) appeals from disqualifications and determinations of
22 nonresponsibility, and (iv) appeals from decisions on disputes arising during the performance of a contract, or (v) any of these.
23 Such administrative procedure shall provide for a hearing before a disinterested person or panel, the opportunity to present
24 pertinent information and the issuance of a written decision containing findings of fact. The disinterested person or panel shall
25 not be an employee of the governmental entity against whom the claim has been filed. The findings of fact shall be final and
26 conclusive and shall not be set aside unless the same are (ia) fraudulent, arbitrary or capricious; (ib) so grossly erroneous as
27 to imply bad faith; or (ic) in the case of denial of prequalification, ~~such the~~ findings were not based upon the criteria for denial
28 of prequalification set forth in subsection B of ~~§ 41-46 2.2-4317~~. No determination on an issue of law shall be final if
29 appropriate legal action is instituted in a timely manner.

30 B. Any party to the administrative procedure, including the public body, shall be entitled to institute judicial review if
31 such action is brought within thirty days of receipt of the written decision.

32 **DRAFTING NOTE:** Technical corrections only.

33 ~~§ 41-74.1 2.2-4366.~~ Alternative dispute resolution.

34 Public bodies ~~are authorized to~~ may enter into agreements to submit disputes arising from contracts entered into
35 pursuant to this chapter to arbitration and to utilize mediation and other alternative dispute resolution procedures; ~~however,~~
36 However, such procedures entered into by the Commonwealth, or any department, institution, division, commission, board or
37 bureau thereof, shall be nonbinding and subject to ~~§ 2-4-127 2.2-514~~, as applicable, ~~and such.~~ Alternative dispute resolution
38 procedures entered into by school boards shall be nonbinding.

39 **DRAFTING NOTE:** Technical corrections only.

40 Article 6.

41 Ethics in Public Contracting.

42 ~~§ 41-72 2.2-4367.~~ Purpose.

43 The provisions of this article supplement, but ~~do~~ shall not supersede, other provisions of law including, but not limited
44 to, the State and Local Government Conflict of Interests Act (~~§ 2-1-639.4 2.2-3100~~ et seq.), the Virginia Governmental Frauds
45 Act (§ 18.2-498.1 et seq.), and Articles 2 (§ 18.2-438 et seq.) and 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2.

46 The provisions of this article shall apply notwithstanding the fact that the conduct described may not constitute a
47 violation of the State and Local Government Conflict of Interests Act.

48 **DRAFTING NOTE:** Technical corrections only.

49 ~~§ 41-73 2.2-4368.~~ Definitions.

50 ~~The words defined in this section shall have the meanings set forth below throughout. As used in this article—:~~

51 "Immediate family" shall ~~mean~~ means a spouse, children, parents, brothers and sisters, and any other person living in
52 the same household as the employee.

53 "Official responsibility" shall ~~mean~~ means administrative or operating authority, whether intermediate or final, to
54 initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom.

"Pecuniary interest arising from the procurement" ~~shall mean means~~ a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act (§ ~~2.1-630.1~~ 2.2-3100 et seq.).

"Procurement transaction" ~~shall mean means~~ all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

"Public employee" ~~shall mean means~~ any person employed by a public body, including elected officials or appointed members of governing bodies.

DRAFTING NOTE: Technical corrections only.

~~§ 11-74~~ 2.2-4369. Proscribed participation by public employees in procurement transactions.

Except as may be specifically allowed by subdivisions A, 2, and A, 3, of ~~§ 2.1-630.11~~ 2.2-3112, no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the public body when the employee knows that:

1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; ~~or~~

2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; ~~or~~

3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or

4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

DRAFTING NOTE: Technical corrections only.

~~§ 11-76~~ 2.2-4370. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the public body unless the employee or former employee provides written notification to the public body, or a public official if designated by the public body, or both, prior to commencement of employment by that bidder, offeror or contractor.

DRAFTING NOTE: Technical corrections only.

~~§ 11-75~~ 2.2-4371. ~~Solicitation~~ Prohibition on solicitation or acceptance of gifts; gifts by bidders, offerors, contractor or subcontractors prohibited.

A. No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The public body may recover the value of anything conveyed in violation of this ~~section~~ subsection.

B. No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 11-75 and subsection B is § 11-77.

~~§ 11-77. Gifts by bidders, offerors, contractors or subcontractors.~~

~~No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 2.2-4371 supra.

~~§ 11-78~~ 2.2-4372. Kickbacks.

A. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

B. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

1 C. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services
2 anything of value in return for an agreement not to compete on a public contract.

3 D. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the
4 amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately
5 borne by the public body and ~~will~~ shall be recoverable from both the maker and recipient. Recovery from one offending party
6 shall not preclude recovery from other offending parties.

7 **DRAFTING NOTE:** Technical corrections only.

8 | ~~§ 41-78.1 2.2-4373.~~ Participation in bid preparation; limitation on submitting bid for same procurement.

9 No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of a public
10 body shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror
11 information concerning the procurement ~~which that~~ is not available to the public. However, a public body may permit such
12 person to submit a bid or proposal for that procurement or any portion thereof if the public body determines that the exclusion
13 of ~~such the~~ person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of
14 the public body.

15 **DRAFTING NOTE:** Technical corrections only.

16 | ~~§ 41-79 2.2-4374.~~ Purchase of building materials, etc., from architect or engineer prohibited.

17 A. No building materials, supplies or equipment for any building or structure constructed by or for a public body shall
18 be sold by or purchased from any person employed as an independent contractor by the public body to furnish architectural or
19 engineering services, but not construction, for such building or structure or from any partnership, association or corporation in
20 which such architect or engineer has a personal interest as defined in ~~§ 2.1-639.2 2.2-3101.~~

21 B. No building materials, supplies or equipment for any building or structure constructed by or for a public body shall
22 be sold by or purchased from any person ~~which who~~ has provided or is currently providing design services specifying a sole
23 source for such materials, supplies or equipment to be used in ~~such the~~ building or structure to the independent contractor
24 employed by the public body to furnish architectural or engineering services in which such person has a personal interest as
25 defined in ~~§ 2.1-639.2 2.2-3101.~~

26 C. The provisions of subsections A and B shall not apply in cases of emergency or for transportation-related projects
27 conducted by the Department of Transportation ~~and or~~ the Virginia Port Authority.

28 **DRAFTING NOTE:** Technical corrections only.

29 | ~~§ 41-79.1 2.2-4375.~~ Certification of compliance required; penalty for false statements.

30 A. Public bodies may require public employees having official responsibility for procurement transactions in which
31 they participated to annually submit for such transactions a written certification that they complied with the provisions of this
32 article.

33 B. Any public employee required to submit a certification as provided in subsection A ~~of this section~~ who knowingly
34 makes a false statement in ~~such the~~ certification shall be punished as provided in ~~§ 41-80 2.2-4377.~~

35 **DRAFTING NOTE:** Technical corrections only.

36 | ~~§ 41-79.2 2.2-4376.~~ Misrepresentations prohibited.

37 No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or
38 misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use
39 any false writing or document knowing ~~the same it~~ to contain any false, fictitious or fraudulent statement or entry.

40 **DRAFTING NOTE:** Technical corrections only.

41 | ~~§ 41-80 2.2-4377.~~ Penalty for violation.

42 ~~Willful~~ Any person convicted of a willful violation of any provision of this article shall ~~constitute~~ be guilty of a Class 1
43 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his
44 employment.

45 **DRAFTING NOTE:** Technical corrections only.

1 CHAPTER 44.

2 VIRGINIA SECURITY FOR PUBLIC DEPOSITS ACT.

3 § 2.1-359 2.2-4400. ~~Declaration of legislative intent; short title; declaration of intent; applicability.~~

4 A. This chapter may be cited as the "Virginia Security for Public Deposits Act."

5 B. The General Assembly intends by this chapter to establish a single body of law applicable to the pledge of
6 security as collateral for public funds on deposit in financial institutions so that the procedure for securing public deposits may
7 be uniform throughout the Commonwealth.

8 This chapter may be cited as the Virginia Security for Public Deposits Act (§ 2.1-359 et seq.).

9 C. All public deposits in qualified public depositories that are required to be secured by other provisions of law or by
10 a public depositor shall be secured pursuant to this chapter.

11 D. This chapter, however, shall not apply to deposits made by the State Treasurer in out-of-state financial institutions
12 related to master custody and tri-party repurchase agreements, provided (i) such deposits do not exceed ten percent of
13 average monthly investment balances and (ii) the out-of-state financial institutions used for this purpose have a short-term
14 deposit rating of not less than A-1 by Standard & Poor's Rating Service or P-1 by Moody's Investors Service, Inc.,
15 respectively.

16 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
17 A and B are § 2.1-359 and subsections C and D are § 2.1-361.

18 § 2.1-360 2.2-4401. Definitions.

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

20 (a) ~~The term "public"~~ "Public deposit" shall mean means moneys of the Commonwealth or of any county, city, town or
21 other political subdivision thereof, including moneys of any commission, institution, committee, board or officer of the
22 foregoing and any state, circuit, county or municipal court, which moneys are deposited in any qualified public depository in
23 any of the following types of accounts: nonnegotiable or registered time deposits, demand deposits, savings deposits, and
24 any other transaction accounts, and security for such deposit is required by other provisions of law, or is required due to an
25 election of the public depositor.

26 (b) ~~The term "qualified"~~ "Qualified public depository" shall mean means any national banking association, federal
27 savings and loan association or federal savings bank located in Virginia and any bank, trust company or savings institution
28 organized under Virginia law that receives or holds public deposits which that are secured pursuant to this chapter.

29 (c) ~~The term "default"~~ "Default or insolvency" shall include includes, but shall not be limited to, the failure or refusal of
30 any qualified public depository to return any public deposit upon demand or at maturity and the issuance of an order of
31 supervisory authority restraining such depository from making payments of deposit liabilities or the appointment of a receiver
32 for such depository.

33 (d) "Treasury Board" shall mean means the Treasury Board of the Commonwealth created by § 2.1-178 2.2-2415.

34 (e) ~~The term "eligible"~~ "Eligible collateral" shall mean means securities of the character authorized as legal
35 investments under the laws of this the Commonwealth for public sinking funds or other public funds and securities acceptable
36 under United States Treasury Department regulations as collateral for the security of treasury tax and loan accounts.

37 (f) ~~In the case of a bank, the term "required"~~ "Required collateral" of a qualified public depository shall mean means,
38 (i) in the case of a bank, a sum equal to fifty percent of the actual public deposits held at the close of business on the last
39 banking day in the month immediately preceding the date of any computation of such balance, or the average balance of all
40 public deposits for such preceding month, whichever is greater, ~~in and~~ (ii) in the case of a savings and loan association or
41 savings bank, the term "required collateral" of a qualified public depository shall mean a sum equal to 100 percent of the
42 average daily balance for the month immediately preceding the date of any computation of such balance of all public deposits
43 held by such depository but shall not be less than 100 percent of the public deposits held by such depository at the close of
44 business on the last banking day in such preceding month.

45 (g) ~~The terms "treasurer"~~ "Treasurer" and "public depositor" shall mean means the State Treasurer, a county, city, or
46 town treasurer or director of finance or similar officer and the custodian of any other public deposits secured pursuant to this
47 chapter.

48 **DRAFTING NOTE:** Technical corrections only.

49 § 2.1-361. Public deposits to be secured as provided in this chapter.

50 A. ~~Upon and after January 1, 1974, all public deposits in qualified public depositories which are required to be~~
51 ~~secured by other provisions of law or by a public depositor shall be secured pursuant to this chapter.~~

52 B. This chapter, however, shall not apply to deposits made by the State Treasurer in out of state financial institutions
53 related to master custody and tri party repurchase agreements, provided (i) such deposits do not exceed ten percent of

1 | average monthly investment balances and (ii) the out of state financial institutions used for this purpose have a short term
2 | deposit rating of not less than A-1 by Standard & Poor's Rating Service or P-1 by Moody's Investors Service, Inc.,
3 | respectively.

4 | **DRAFTING NOTE:** Technical corrections. This section now appears as subsections C and D in proposed § 2.2-4400 supra.

5 | ~~§ 2.1-362~~ 2.2-4402. Collateral for public deposits.

6 | Every qualified public depository shall deposit with the State Treasurer, or, with the approval of the Treasury Board,
7 | with the Federal Reserve Bank of Richmond or any other bank or trust company located within or without ~~the~~ the
8 | Commonwealth, eligible collateral equal to or in excess of the required collateral of such depository to be held subject to the
9 | order of the Treasury Board. Eligible collateral shall be valued as determined by the Treasury Board. Substitutions and
10 | withdrawals of eligible collateral may be made from time to time under regulations issued by the Treasury Board.

11 | Each qualified public depository shall, at the time of the deposit of eligible collateral, deliver to the State Treasurer a
12 | power of attorney authorizing him to transfer any registered securities deposited, or any part thereof, for the purpose of
13 | paying any of the liabilities provided for in this chapter.

14 | Notwithstanding any other provisions of law, no depository shall be required to give bond or pledge securities in the
15 | manner herein provided for the purpose of securing deposits received or held in the trust department of the depository and
16 | ~~which that~~ are secured as required by § 6.1-21 or ~~which that~~ are secured pursuant to Title 12, § 92a of the United States
17 | Code by securities of the classes prescribed by § 6.1-21.

18 | No qualified public depository shall accept or retain any public deposit ~~which that~~ is required to be secured unless it
19 | has deposited eligible collateral equal to its required collateral with some proper depository pursuant to this chapter.

20 | **DRAFTING NOTE:** Technical corrections only.

21 | ~~§ 2.1-363~~ 2.2-4403. Procedure for payment of losses where depository is bank.

22 | A. When the Treasury Board is advised by any treasurer or otherwise determines that a default or insolvency has
23 | occurred with regard to a qualified public depository ~~which that~~ is a bank, it shall as promptly as practicable make payment to
24 | the proper treasurer of all funds subject to such default or insolvency, pursuant to the following procedures:

25 | ~~(a)~~ 1. The Treasury Board and the treasurer shall ascertain the amount of public funds on deposit with the qualified
26 | public depository in default or insolvent ~~which that~~ are secured pursuant to this chapter, either with the cooperation of the
27 | Commissioner of Financial Institutions or receiver appointed for such depository or by any other means available, and the
28 | amount of deposit insurance applicable to such deposits.

29 | ~~(b)~~ 2. The amount of such public deposits ascertained as provided in ~~(a)~~ subdivision 1, net of applicable deposit
30 | insurance, shall be assessed by the Treasury Board first against the depository in default or insolvent to the extent of the full
31 | realizable current market value of the collateral deposited by it to secure its public deposits, and second, to the extent that
32 | such collateral is insufficient to satisfy the liability of the depository upon its deposits secured pursuant to this chapter against
33 | each of the other qualified public depositories according to the ratio ~~which that~~ the average daily balance for each month of
34 | the secured public deposits held by the depository during the twelve calendar months immediately preceding the date of the
35 | default or insolvency with respect to which the assessment is made bears to the total average daily balance for each month of
36 | all secured public deposits held by all qualified public depositories ~~which that~~ are banks, other than the defaulting depository,
37 | during those twelve calendar months.

38 | ~~(c)~~ 3. Assessments made by the Treasury Board shall be payable on the second business day following demand,
39 | and in case of the failure of any qualified public depository to pay such assessment when due, the State Treasurer shall
40 | ~~forthwith promptly~~ take possession of the eligible collateral deposited with him or with the Federal Reserve Bank of Richmond
41 | or other bank or trust company pursuant to this chapter and liquidate the same to the extent necessary to pay such
42 | assessment and turn over such amounts received to the Treasury Board.

43 | ~~(d)~~ 4. Upon receipt of such assessment, payments or the proceeds of the eligible collateral liquidated to pay such
44 | assessments from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the
45 | depository's deposit liability to them, net of any applicable deposit insurance.

46 | **DRAFTING NOTE:** Technical corrections only.

47 | ~~§ 2.1-363.1~~ 2.2-4404. Procedure for payment of losses where depository is savings bank or savings and loan
48 | association.

49 | When the Treasury Board is advised by any treasurer or otherwise determines that a default or insolvency has
50 | occurred with regard to a qualified public depository ~~which that~~ is a savings bank or a savings and loan association, it shall as
51 | promptly as practicable make payment to the proper treasurer of all funds subject to such default or insolvency, pursuant to
52 | the following procedures:

53 | 1. The Treasury Board and the treasurer shall ascertain the amount of public funds on deposit with the qualified
54 | public depository in default or insolvent ~~which that~~ are secured pursuant to this chapter, either with the cooperation of the

Commissioner of Financial Institutions or receiver appointed for such depository or by any other means available, and the amount of deposit insurance applicable to such deposits.

2. The amount of such public deposits ascertained as provided in subdivision 1 ~~of this section~~, net of applicable deposit insurance, shall be assessed by the Treasury Board against the depository in default or insolvent. The State Treasurer shall ~~forthwith~~ promptly take possession of such of the eligible collateral deposited by such depository with him, or with any other depository pursuant to this chapter, as is necessary to satisfy the assessment of the Treasury Board and shall liquidate the same and turn over the proceeds thereof to the Treasury Board.

3. Upon receipt from the State Treasurer of the payments or proceeds of the eligible collateral liquidated to pay such assessments from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the depository's deposit liability to them, net of any applicable deposit insurance.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-364 2.2-4405. General powers~~ Powers of Treasury Board relating to the administration of this chapter.

The Treasury Board shall have power to:

(a) ~~To make~~ 1. Make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter;

(b) ~~To prescribe~~ 2. Prescribe regulations fixing terms and conditions consistent with this chapter under which public deposits may be received and held;

(c) ~~To require~~ 3. Require such additional collateral, in excess of the required collateral of any qualified public depository, of any and all such depositories as it may determine prudent under the circumstances;

(d) ~~To determine~~ 4. Determine ~~within the requirements of § 2.1-360 (e)~~ what securities shall be acceptable as eligible collateral, and to fix the percentage of face value or market value of such securities that can be used to secure public deposits;

(e) ~~To require~~ 5. Require any qualified public depository to furnish such information concerning its public deposits as it shall request; and

(f) ~~To determine~~ 6. Determine when a default or insolvency has occurred and to take such action as it may deem advisable for the protection, collection, compromise or settlement of any claim arising in case of default or insolvency.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-365 2.2-4406.~~ Subrogation of Treasury Board to depositor's rights; payment of sums received from distribution of assets.

Upon payment in full to any public depositor, the Treasury Board shall be subrogated to all of such depositor's rights, title and interest against the depository in default or insolvent and shall share in any distribution of its assets ratably with other depositors. Any sums received from any such distribution shall be paid to the other qualified public depositories against which assessments were made, in proportion to such assessments, net of any proper expense of the Treasury Board in enforcing any such claim.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-366 2.2-4407.~~ Deposit of public funds in qualified public depository mandatory.

No public deposit ~~which that~~ is required to be secured pursuant to this chapter shall be made except in a qualified public depository.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-367 2.2-4408.~~ Authority to deposit public funds.

A. All treasurers and public depositors are hereby authorized to deposit funds under their control in qualified public depositories securing public deposits pursuant to this chapter.

B. Local officials handling public funds in the Commonwealth may not require from a depository institution any pledge of collateral for their deposits in such institution which is in excess of the requirements of this chapter.

DRAFTING NOTE: Technical corrections only. This section is comprised of the following existing sections: subsection A is § 2.1-367 and subsection B is existing § 2.1-234.5.

~~§ 2.1-368 2.2-4409.~~ Authority to secure public deposits; acceptance of liabilities and duties by public depositories.

All institutions located in ~~this the~~ Commonwealth ~~which that~~ are permitted to hold and receive public deposits are hereby authorized to secure such deposits in accordance with this chapter.

Any institution accepting a public deposit ~~which that~~ is required to be secured pursuant to this chapter shall be deemed to have accepted the liabilities and duties imposed upon it pursuant to this chapter with respect to ~~such the~~ deposit.

1 DRAFTING NOTE: Technical corrections only.

2 ~~§ 2-1-370~~ 2.2-4410. Liability of treasurers or public depositors.

3 When deposits are made in accordance with this chapter no treasurer or public depositor shall be liable for any loss
4 thereof resulting from the failure or default of any depository in the absence of negligence, malfeasance, misfeasance, or
5 nonfeasance on his part or on the part of his assistants or employees.

6 DRAFTING NOTE: Technical corrections only.

7 ~~§ 2-1-369~~ 2.2-4411. Reports of public depositories.

8 Within ten days after the end of each calendar month or when requested by the Treasury Board each qualified public
9 depository shall submit to the Treasury Board a written report, under oath, indicating (i) the total amount of public deposits
10 held by it at the close of business on the last banking day in the month, ~~and (ii)~~ the average daily balance for the month of all
11 secured public deposits held by it during the month, ~~and (iii)~~ a detailed schedule of pledged collateral at its current asset
12 value for purposes of collateral at the close of business on the last banking day in the month ~~as well as~~, and (iv) any other
13 information with respect to its secured public deposits that may be required by the Treasury Board.

14 Each qualified public depository shall also furnish at the same time to each public depositor for which it holds
15 deposits and ~~which that~~ makes a written request therefor a schedule of the secured public deposits to the credit of such
16 depositor as of the close of business on the last banking day in the month and the total amount of all secured public deposits
17 held by it upon such date.

18 DRAFTING NOTE: Technical corrections only.

19 CHAPTER 45.

20 INVESTMENT OF PUBLIC FUNDS ACT.

21 ~~§ 2-1-327~~ 2.2-4500. Legal investments for public sinking funds.

22 The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies
23 of the Commonwealth may invest any sinking funds belonging to them or within their control in the following securities:

24 1. ~~Obligations of the Commonwealth.~~ Bonds, notes and other evidences of indebtedness of the Commonwealth, ~~and~~
25 securities unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.

26 2. ~~Obligations of the United States, etc.~~ Bonds, notes and other obligations of the United States, and securities
27 unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The
28 evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements
29 collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment
30 company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such
31 investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements
32 collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios
33 are so restricted.

34 3. ~~Obligations of Virginia counties, cities, etc.~~ Bonds, notes and other evidences of indebtedness of any county, city,
35 town, district, authority or other public body of the Commonwealth upon which there is no default; provided, that such bonds,
36 notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct
37 legal obligations of, or those unconditionally guaranteed as to the payment of principal and interest by the county, city, town,
38 district, authority or other public body in question; and revenue bonds issued by agencies or authorities of the Commonwealth
39 or its political subdivisions upon which there is no default.

40 4. ~~Obligations of International Bank for Reconstruction and Development, Asian Development Bank and African~~
41 ~~Development Bank.~~ Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction
42 and Development, bonds and other obligations issued, guaranteed or assumed by the Asian Development Bank and bonds
43 and other obligations issued, guaranteed or assumed by the African Development Bank.

44 5. ~~Saving accounts or time deposits.~~ Savings accounts or time deposits in any bank or savings institution within ~~this~~
45 the Commonwealth provided ~~such the~~ bank or savings institution is approved for the deposit of other funds of the
46 Commonwealth or other political subdivision ~~thereof~~ of the Commonwealth.

47 DRAFTING NOTE: Technical corrections only.

48 ~~§ 2-1-328~~ 2.2-4501. ~~(Effective January 1, 2000)~~ Legal investments for other public funds.

49 A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public
50 bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking
51 funds, in the following:

1 1. ~~Obligations of the Commonwealth.~~ Stocks, bonds, notes, and other evidences of indebtedness of the
2 Commonwealth of Virginia, and those unconditionally guaranteed as to the payment of principal and interest by the
3 Commonwealth of Virginia.

4 2. ~~Obligations of the United States, etc.~~ Stocks, bonds, treasury notes and other evidences of indebtedness of the
5 United States, including the guaranteed portion of any loan guaranteed by the Small Business Administration, an agency of
6 the United States government, and those unconditionally guaranteed as to the payment of principal and interest by the United
7 States; bonds of the District of Columbia; bonds and notes of the Federal National Mortgage Association and the Federal
8 Home Loan Banks; bonds, debentures or other similar obligations of federal land banks, federal intermediate credit banks, or
9 banks of cooperatives, issued pursuant to acts of Congress; and obligations issued by the United States Postal Service when
10 the principal and interest thereon is guaranteed by the government of the United States. ~~The evidences of indebtedness~~
11 ~~enumerated by this paragraph may be held directly or in the form of repurchase agreements collateralized by such debt~~
12 ~~securities or in the form of securities of any open end or closed end management type investment company or investment~~
13 ~~trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or~~
14 ~~investment trust is limited to such evidences of indebtedness or repurchase agreements collateralized by such securities, or~~
15 ~~securities of other such investment companies or investment trusts whose portfolios are so restricted. Bonds, notes and~~
16 ~~other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by~~
17 ~~the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held~~
18 ~~directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any~~
19 ~~open-end or closed-end management type investment company or investment trust registered under the Investment~~
20 ~~Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences~~
21 ~~of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment~~
22 ~~companies or investment trusts whose portfolios are so restricted.~~

23 3. ~~Obligations of other states.~~ Stocks, bonds, notes and other evidences of indebtedness of any state of the United
24 States upon which there is no default and upon which there has been no default for more than ninety days; provided, that
25 within the twenty fiscal years next preceding the making of such investment, such state has not been in default for more than
26 ninety days in the payment of any part of principal or interest of any debt authorized by the legislature of such state to be
27 contracted.

28 4. ~~Obligations of Virginia counties, cities, etc.~~ Stocks, bonds, notes and other evidences of indebtedness of any
29 county, city, town, district, authority or other public body in the Commonwealth of Virginia upon which there is no default;
30 provided, that if the principal and interest be payable from revenues or tolls and the project has not been completed, or if
31 completed, has not established an operating record of net earnings available for payment of principal and interest equal to
32 estimated requirements for that purpose according to the terms of the issue, the standards of judgment and care required in
33 Article 2 (§ 26-45.3 et seq.) of Chapter 3 of Title 26, without reference to this section, shall apply.

34 In any case in which an authority, having an established record of net earnings available for payment of principal and
35 interest equal to estimated requirements for that purpose according to the terms of the issue, issues additional evidences of
36 indebtedness for the purposes of acquiring or constructing additional facilities of the same general character that it is then
37 operating, such additional evidences of indebtedness shall be governed ~~fully~~ by the provisions of this section without
38 limitation.

39 5. ~~Obligations of cities, counties, etc., of other states.~~ Legally authorized stocks, bonds, notes and other evidences of
40 indebtedness of any city, county, town or district situated in any one of the states of the United States upon which there is no
41 default and upon which there has been no default for more than ninety days; provided, that (i) within the twenty fiscal years
42 next preceding the making of such investment, such city, county, town or district has not been in default for more than ninety
43 days in the payment of any part of principal or interest of any stock, bond, note or other evidence of indebtedness issued by
44 it; (ii) such city, county, town or district shall have been in continuous existence for at least twenty years; (iii) such city, county,
45 town or district has a population, as shown by the federal census next preceding the making of such investment, of not less
46 than 25,000 inhabitants; (iv) the stocks, bonds, notes or other evidences of indebtedness in which such investment is made
47 are the direct legal obligations of the city, county, town or district issuing the same; (v) the city, county, town or district has
48 power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or
49 amount; and (vi) the net indebtedness of such city, county, town or district (including the issue in which such investment is
50 made), after deducting the amount of its bonds issued for self-sustaining public utilities, does not exceed ten percent of the
51 value of the taxable property in such city, county, town or district, to be ascertained by the valuation of such property therein
52 for the assessment of taxes next preceding the making of such investment.

53 6. ~~Obligations of International Bank, Asian Development Bank and African Development Bank.~~ Bonds and other
54 obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, by the Asian
55 Development Bank or by the African Development Bank.

56 B. This section shall not apply to retirement funds and deferred compensation plans to be invested pursuant to §§
57 51.1-124.30 through 51.1-124.35 or § 51.1-601.

1 ~~BC.~~ Investments made prior to July 1, 1991, pursuant to § 51.1-601 are hereby ratified and deemed valid to the
2 extent that such investments were made in conformity with the standards set forth in Chapter 6 (§ 51.1-600 et seq.) of Title
3 51.1.

4 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Department of the Treasury, subsection A, 2, was
5 replaced with language from existing § 2.1-327 (A 2), which provides the same coverage of securities but in more general and
6 manageable terms. The basis for this decision is that existing subsection A, 2, of § 2.1-328 attempts to be all inclusive, but
7 then proceeds to provide a list of agency securities that quickly becomes out dated.

8 ~~§ 2.1-328.4 2.2-4502.~~ Investment of funds of Commonwealth, political subdivisions, and public bodies in "prime
9 quality" commercial paper.

10 A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public
11 bodies of the Commonwealth may invest any and all moneys belonging to them or within their control other than sinking funds
12 in "prime quality" commercial paper, with a maturity of 270 days or less, of issuing corporations organized under the laws of
13 the United States, or of any state thereof including paper issued by banks and bank holding companies. "Prime quality" shall
14 be as rated by at least two of the following: Moody's Investors Service, Inc., within its NCO/Moody's rating of prime 1, by
15 Standard & Poor's, Inc., within its rating of A-1, by Fitch Investor's Services, Inc., within its rating of F-1, by Duff and Phelps,
16 Inc., within its rating of D-1, or by their corporate successors, provided that at the time of any such investment:

17 1. The issuing corporation, or its guarantor, has a net worth of at least fifty million dollars; and

18 2. The net income of the issuing corporation, or its guarantor, has averaged three million dollars per year for the
19 previous five years; and

20 3. All existing senior bonded indebtedness of the issuer, or its guarantor, is rated "A" or better or the equivalent
21 rating by at least two of the following: Moody's Investors Service, Inc., Standard & Poor's, Inc., Fitch Investor's Services, Inc.,
22 or Duff and Phelps, Inc.

23 Not more than thirty-five percent of the total funds available for investment may be invested in commercial paper,
24 and not more than five percent of the total funds available for investment may be invested in commercial paper of any one
25 issuing corporation.

26 B. Notwithstanding subsection A ~~of this section~~, the Commonwealth, municipal corporations, other political
27 subdivisions and public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control,
28 except for sinking funds, in commercial paper other than "prime quality" commercial paper as defined in this section provided
29 that:

30 1. Prior written approval is obtained from the governing board, committee or other entity that determines investment
31 policy. The Treasury Board shall be the governing body for the Commonwealth; and

32 2. A written internal credit review justifying the creditworthiness of the issuing corporation is prepared in advance and
33 made part of the purchase file.

34 **DRAFTING NOTE:** Technical corrections only.

35 ~~§ 2.1-328.2 2.2-4503.~~ Investments by Fairfax County finance director.

36 Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any such law, the
37 director of finance of Fairfax County may invest, redeem, sell, exchange, and reinvest unexpended or surplus moneys, in any
38 fund or account of which he has custody or control, in bankers' acceptances.

39 **DRAFTING NOTE:** Technical corrections. This section is not set out in the Code, but is set out here for the purposes of this
40 title revision. The Code Commission directed that this section continue to be not set out in the Code.

41 ~~§ 2.1-328.3 2.2-4504. Investments by local governments~~ Investment of funds by the Commonwealth and political
42 subdivisions in bankers' acceptances.

43 Notwithstanding any provisions of law to the contrary, all public officers, municipal corporations, other political
44 subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within
45 their control other than sinking funds in bankers' acceptances.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 2.1-328.5 2.2-4505.~~ Investment in certificates representing ownership of treasury bond principal at maturity or its
48 coupons for accrued periods.

49 Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations,
50 other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to
51 them or within their control, in certificates representing ownership of either treasury bond principal at maturity or its coupons
52 for accrued periods. The underlying United States Treasury bonds or coupons shall be held by a third-party independent of
53 the seller of such certificates.

DRAFTING NOTE: Technical corrections only.

2 ~~§ 2-1-328.6~~ 2-2-4506. Securities lending.

3 Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations,
4 political subdivisions and all public bodies of the Commonwealth may engage in securities lending from the portfolio of
5 investments of which they have custody and control, other than sinking funds. The Treasury Board shall develop guidelines
6 with which such securities lending shall fully comply. Such guidelines shall ensure that the state treasury is at all times fully
7 collateralized by the borrowing institution.

8 **DRAFTING NOTE:** Technical corrections only.

9 ~~§ 2-1-328.8~~ 2-2-4507. Investment of funds in overnight, term and open repurchase agreements.

10 Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations,
11 other political subdivisions and all other public bodies of the Commonwealth, may invest any and all moneys belonging to
12 them or within their control in overnight, term and open repurchase agreements ~~which~~ that are collateralized with securities
13 that are approved for direct investment.

14 **DRAFTING NOTE:** Technical corrections only.

15 ~~§ 2-1-328.9~~ 2-2-4508. Investment of certain public moneys in certain mutual funds.

16 Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations,
17 other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to
18 them or within their control, other than sinking funds ~~which~~ that are governed by the provisions of ~~§ 2-1-327~~ 2-2-4500, in one
19 or more open-end investment funds, provided that the funds are registered under the Securities Act (§ 13.1-501 et seq.) of
20 the Commonwealth of Virginia or the Federal Investment Co. Act of 1940, and that the investments by such funds are
21 restricted to investments otherwise permitted by law for political subdivisions as set forth in this chapter, or investments in
22 other such funds whose portfolios are so restricted.

23 **DRAFTING NOTE:** Technical corrections only.

~~§ 2-1-328.15~~ 2-2-4509. Investment of funds in negotiable certificates of deposit and negotiable bank deposit notes.

 Notwithstanding any provision of law to the contrary, the Commonwealth and all public officers, municipal
26 corporations, and other political subdivisions and all other public bodies of the Commonwealth may invest any or all of the
27 moneys belonging to them or within their control, other than sinking funds, in negotiable certificates of deposit and negotiable
28 bank deposit notes of domestic banks and domestic offices of foreign banks with a rating of at least A-1 by Standard & Poor's
29 and P-1 by Moody's Investor Service, Inc., for maturities of one year or less, and a rating of at least AA by Standard & Poor's
30 and Aa by Moody's Investor Service, Inc., for maturities over one year and not exceeding five years.

31 **DRAFTING NOTE:** Technical corrections only.

32 ~~§ 2-1-328.10~~ 2-2-4510. Investment of funds in corporate notes.

33 A. Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal
34 corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys
35 belonging to them or within their control, other than sinking funds, in high quality corporate notes with a rating of at least Aa
36 by Moody's Investors Service, Inc., and a rating of at least AA by Standard and Poors, Inc., and a maturity of no more than
37 five years.

38 B. Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth, ~~as defined~~
39 ~~in this section~~, may invest any and all moneys belonging to it or within its control, other than sinking funds, in high quality
40 corporate notes with a duration of no more than five years and a rating of at least A by two rating agencies, one of which ~~must~~
41 shall be either Moody's Investors Service, Inc., or Standard and Poors, Inc.

42 As used in this section, "qualified public entity" ~~is defined as means~~ any state agency or institution of the
43 Commonwealth, having an internal or external public funds manager with professional investment management capabilities.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 2-1-328.13~~ 2-2-4511. Investment of funds in asset-backed securities.

46 Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth, ~~as defined in~~
47 ~~this section~~, may invest any and all moneys belonging to it or within its control, other than sinking funds, in asset-backed
48 securities with a duration of no more than five years and a rating of no less than AAA by two rating agencies, one of which
49 must be either Moody's Investors Service, Inc., or Standard and Poors, Inc.

1 As used in this section, "qualified public entity" ~~is defined as~~ means any state agency, institution or
2 Commonwealth or statewide authority created under the laws of the Commonwealth having an internal or external
3 funds manager with professional investment management capabilities.

4 **DRAFTING NOTE:**

5 ~~§ 2.1-328.7. Investment of funds by State Treasurer in first lien deeds of trust on residential property.~~

6 ~~Notwithstanding any provision of law to the contrary, the State Treasurer may invest unexpended or excess moneys,~~
7 ~~in any funds or account of which he has custody and control, other than sinking funds, in first lien deeds of trust on residential~~
8 ~~property.~~

9 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Department of the Treasury, this section has been
10 deleted because these types of investments instrument are no longer used in practice.

11 ~~§ 2.1-328.4. Investment of funds by State Treasurer in bankers' acceptances; guidelines.~~

12 ~~Notwithstanding any provision of law to the contrary, the State Treasurer may invest unexpended or excess moneys~~
13 ~~in any fund or account of which he has custody and control, other than sinking funds, in bankers' acceptances.~~

14 ~~The Treasury Board shall develop guidelines under which such investments shall be made.~~

15 **DRAFTING NOTE:** Technical corrections. On the recommendation of the State Treasurer, this section has been deleted as
16 duplicative of existing § 2.1-328.3 (proposed § 2.2-4504).

17 ~~§ 2.1-328.14 2.2-4512. Investment of funds by State Treasurer in obligations of foreign sovereign governments.~~

18 Notwithstanding any provision of law to the contrary, the State Treasurer may invest unexpended or excess moneys
19 in any fund or account over which he has custody and control, other than sinking funds, in fully hedged debt obligations of
20 sovereign governments and companies that are fully guaranteed by such sovereign governments, with a rating of at least
21 AAA by Moody's Investors Service, Inc., and a rating of at least AAA by Standard and Poors, Inc., and a maturity of no more
22 than five years.

23 Not more than ten percent of the total funds of the Commonwealth available for investment may be invested in the
24 manner described in this section.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§ 2.1-328.12 2.2-4513. Investments by transportation commissions.~~

27 Transportation commissions ~~which that~~ provide rail service may invest in, if required as a condition to obtaining
28 insurance, participate in, or purchase insurance provided by, foreign insurance companies ~~which that~~ insure railroad
29 operations.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2.1-328.14 2.2-4514. Commonwealth and its political subdivisions as trustee of public funds; standard of care in~~
32 ~~investing such funds.~~

33 Public funds held by the Commonwealth, public officers, municipal corporations, political subdivisions, and any other
34 public body of the Commonwealth ~~are shall be~~ held in trust for the citizens of the Commonwealth. Any investment of such
35 funds pursuant to the provisions of this chapter shall be made solely in the interest of ~~such the~~ citizens of the Commonwealth
36 and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like
37 capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

38 **DRAFTING NOTE:** Technical corrections only.

39 ~~§ 2.1-329.04 2.2-4515. Collateral and safekeeping arrangements.~~

40 ~~Effective October 1, 1988, securities~~ Securities purchased pursuant to the provisions of this chapter shall be held by
41 the public official, municipal corporation or other political subdivision or public body or its custodial agent who may not
42 otherwise be a counterparty to the investment transaction. Securities held on the books of the custodial agent by a custodial
43 agent shall be held in the name of the municipal corporation, political subdivision or other public body subject to the public
44 body's order of withdrawal. The responsibilities of the public official, municipal corporation, political subdivision or other public
45 body shall be evidenced by a written agreement ~~which that~~ shall provide for delivery of the securities by the custodial agent in
46 the event of default by a counterparty to the investment transaction. ~~The provisions of this section do not apply to investments~~
47 ~~with a maturity of less than thirty one calendar days.~~

48 As used in this section, "counterparty" ~~is defined as~~ means the issuer or seller of a security, an agent purchasing a
49 security on behalf of a public official, municipal corporation, political subdivision or other public body or the party respon
50 for repurchasing securities underlying a repurchase agreement.

1 The provisions of this section shall not apply to (i) investments with a maturity of less than thirty-one calendar days
2 or (ii) the State Treasurer of Virginia, who shall comply with safekeeping guidelines issued by the Treasury Board or to
3 endowment funds invested in accordance with the provisions of the Uniform Investment of Institutional Funds Act, Article 1.1
4 (§ 55-268.1 et seq.) of Chapter 15 of Title 55.

5 **DRAFTING NOTE:** Technical corrections only.

6 § ~~2.1-329.4~~ 2.2-4516. Liability of treasurers or public depositors.

7 When investments are made in accordance with this chapter, no treasurer or public depositor shall be liable for any
8 loss therefrom in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his
9 assistants or employees.

10 **DRAFTING NOTE:** Technical corrections only.

11 CHAPTER 46.

12 LOCAL GOVERNMENT INVESTMENT POOL ACT

13 § ~~2.1-234.4~~ 2.2-4600. Short title; definitions.

14 A. This article chapter may be cited as the "Investment of Public Funds and Local Government Investment Pool Act."

15 B. As used in this chapter:

16 "Depository institution" means any commercial bank or trust company, savings institution, (or building and loan
17 association) insured by an agency or instrumentality of the United States government.

18 "Local official handling public funds" or "official" means any person or entity described in the opening paragraph of §
19 2.2-4500.

20 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
21 A is § 2.1-234.1 and subsection B is § 2.1-234.3.

22 § ~~2.1-234.2~~ 2.2-4601. Findings and purpose.

23 A. The General Assembly finds that the public interest is served by maximum and prudent investment of public funds
24 so that the need for taxes and other public revenues is decreased commensurately with the earnings on such investments. In
25 selecting among avenues of investment, the highest rate of return, consistent with safety and liquidity, shall be the objective.

26 B. The purpose of this ~~article chapter~~ is to secure the maximum public benefit from the ~~deposit and~~ investment of
27 public funds, and, in furtherance of such purposes to:

28 1. ~~To establish~~ Establish and maintain a continuing statewide policy for the deposit and investment of public funds;

29 2. ~~To establish~~ Establish a state-administered pool for the investment of local government funds; and

30 3. ~~To authorize~~ Authorize treasurers or any other person collecting, disbursing, or otherwise handling public funds to
31 invest such public funds either under the state policy in accordance with Chapter 45 (§ 4500 et seq.) of this title or through the
32 local government investment pool created by the ~~article chapter~~.

33 C. The General Assembly finds that the objectives of this ~~article chapter~~ will best be obtained through improved
34 money management, emphasizing the primary requirements of safety and liquidity and recognizing the different investment
35 objectives of operating and permanent funds.

36 **DRAFTING NOTE:** Technical corrections only.

37 § ~~2.1-234.8~~ 2.2-4602. Local government investment pool created.

38 A. A local government investment pool is ~~hereby~~ created, consisting of the aggregate of all funds from local officials
39 handling public funds that are placed in the custody of the State Treasurer for investment and reinvestment as provided
40 ~~herein~~ in this chapter.

41 B. The Treasury Board or its ~~delegate~~ designee shall administer the local government investment pool on behalf of
42 the participating local officials subject to regulations and guidelines ~~promulgated~~ adopted by the Treasury Board.

43 C. The Treasury Board or its ~~delegate~~ designee shall invest moneys in the local government investment pool with
44 the degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and
45 intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable
46 safety of their capital as well as the probable income to be derived. Specifically, the types of authorized investments for local
47 government investment pool assets shall be limited to those set forth for local officials in Chapter ~~4845~~ (§ 2.1-327-2.2-4500 et
48 seq.) of this title.

49 D. A separate account for each participant in the fund shall be kept to record individual transactions and totals of all
50 investments belonging to each participant. A monthly report showing the changes in investments made during the preceding

1 month shall be furnished to each participant having a beneficial interest in the local government investment pool. Details of
2 any investment transaction shall be furnished to any participant upon request.

3 E. The Treasury Board or its ~~delegate designee~~ shall administer and handle ~~such the~~ accounts in the same manner
4 as bond and sinking fund trust accounts.

5 F. The principal and accrued income, and any part thereof, of each and every account maintained for a participant in
6 the local government investment pool shall be subject to payment at any time from the local government investment pool
7 upon request, subject to applicable regulations and guidelines. Accumulated income shall be remitted or credited to each
8 participant at least quarterly.

9 G. Except as provided in this section, all instruments of title of all investments of the local government investment
10 pool shall remain in the custody of the State Treasurer. The State Treasurer may deposit with one or more fiscal agents or
11 banks, those instruments of title he considers advisable, to be held in safekeeping by the agents or banks for collection of the
12 principal and interest or other income, or of the proceeds of sale. The State Treasurer shall collect the principal and interest
13 or other income from investments of the investment pool, the instruments of title to which are in his custody, when due and
14 payable.

15 **DRAFTING NOTE:** Technical corrections only.

16 § ~~2.1-234.4~~ 2.2-4603. Investment authority.

17 Subject to the procedures set forth in this ~~article~~ chapter, any local official handling public funds may invest and
18 reinvest any money subject to his control and jurisdiction in the local government investment pool established by § ~~2.1-234.8~~
19 2.2-4602.

20 **DRAFTING NOTE:** Technical corrections only.

21 § ~~2.1-234.5~~. ~~Collateral conditions.~~

22 ~~Local officials handling public funds in this Commonwealth may not require from a depository institution any pledge~~
23 ~~of collateral for such official's deposits in such institution which is in excess of the requirements of the Virginia Security for~~
24 ~~Public Deposits Act (§ 2.1-359 et seq.)~~

25 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-4408 supra.

26 § ~~2.1-234.6~~ 2.2-4604. Interfund pooling for investment purposes.

27 Local officials handling public funds ~~are hereby authorized and encouraged to may~~ effect temporary transfers among
28 separate funds for the purpose of pooling amounts available for investment; ~~this~~. This pooling may be accomplished through
29 interfund advances and other appropriate means consistent with recognized principles of governmental accounting provided
30 that: ~~1. Moneys~~ (i) moneys are available for the investment period required; ~~2. The~~ (ii) the investment fund can repay the
31 advance by the time needed; ~~3. The~~ (iii) the transactions are fully and promptly recorded; and ~~4. The~~ (iv) the interest earned is
32 credited to the loaning or advancing jurisdiction.

33 **DRAFTING NOTE:** Technical corrections only.

34 § ~~2.1-234.7~~ 2.2-4605. Powers of Treasury Board relating to the administration of local government investment pools.

35 A. The Treasury Board shall have power to:

36 1. ~~To make~~ Make and ~~promulgate~~ adopt regulations necessary and proper for the efficient administration of the local
37 government investment pool hereinafter created, including but not limited to:

38 a. Specification of minimum amounts ~~which that~~ may be deposited in the local government investment pool and
39 minimum periods of time for which deposits shall be retained in ~~the~~ such pool;

40 b. Creation of a reserve for losses;

41 c. Payment of administrative expenses from the earnings of ~~the~~ such pool;

42 d. Distribution of the earnings in excess of such expenses, or allocation of losses, to the several participants in a
43 manner ~~which that~~ equitably reflects the differing amounts of their respective investments and the differing periods of time for
44 which such amounts were in the custody of the pool; and

45 e. Procedures for the deposit and withdrawal of funds.

46 2. ~~To develop~~ Develop guidelines for the protection of the local government investment pool in the event of default in
47 the payment of principal or interest or other income of any investment of ~~the investment~~ such pool, such guidelines to include
48 the following procedures:

49 a. Instituting the proper proceedings to collect the matured principal or interest or other income;

50 b. Accepting for exchange purposes refunding bonds or other evidences of indebtedness at appropriate interest
51 rates;

2 c. Making compromises, adjustments, or disposition of matured principal or interest or other income as considered
3 advisable for the purpose of protecting the moneys invested;

4 d. Making compromises or adjustments as to future payments of principal or interest or other income considered
5 advisable for the purpose of protecting the moneys invested.

6 3. ~~To formulate~~ Formulate policies for the investment and reinvestment of funds in the local government investment
7 pool and the acquisition, retention, management, and disposition of investments of the investment pool.

8 B. The Treasury Board may delegate the administrative aspects of operating under this ~~article chapter~~ to the State
9 Treasurer, subject to the regulations and guidelines ~~promulgated adopted~~ by the Treasury Board.

10 C. Such regulations and guidelines may be ~~promulgated adopted~~ without complying with the Administrative Process
11 Act (~~§ 9-6-14-1 2.2-4000~~ et seq.) provided that input is solicited from local officials handling public funds. Such input requires
12 only that notice and an opportunity to submit written comments be given.

13 ~~D. The Treasury Board may determine when the first deposits into the investment pool will be accepted, considering
14 the physical capability of the office of the State Treasurer to administer such pool.~~

15 **DRAFTING NOTE:** Technical corrections. Subsection D has been deleted on the recommendation of the Department of the
16 Treasury because the local government investment pool has been established for 18 years and the language is now
17 obsolete.

18 ~~§ 2-1-234.9 2.2-4606.~~ Article Chapter controlling over inconsistent laws; powers supplemental.

19 Insofar as the provisions of this ~~article chapter~~ are inconsistent with the provisions of any other law, the provisions of
20 this ~~article chapter~~ shall be controlling and the powers conferred by this ~~article chapter~~ shall be in addition and supplemental
21 to the powers conferred by any other law.

22 **DRAFTING NOTE:** Technical corrections only.

23 CHAPTER 47.

24 GOVERNMENT NON-ARBITRAGE INVESTMENT ACT.

25 ~~§ 2-1-234.9:1 2.2-4700.~~ Authorization to Treasury Board to provide certain assistance.

26 A. This ~~article chapter~~ shall be known, and may be cited, as the "Government Non-Arbitrage Investment Act."

27 B. ~~Certain provisions of the federal Tax Reform Act of 1986 have imposed on the Commonwealth, on counties, cities
28 and towns of the Commonwealth, and on their agencies, institutions, and authorities that borrow money the onus of
29 computing an artificial yield on certain investments associated with such borrowing and of rebating to the federal government
30 investment earnings in excess of such yield. The administrative and legal requirements of compliance with such provisions
31 are extensive, complicated and expensive. The General Assembly, therefore, authorizes the Treasury Board to make
32 available to the Commonwealth, to counties, cities and towns in the Commonwealth, and to their agencies, institutions, and
33 authorities or any combination of the foregoing assistance as provided in this ~~article chapter~~ in making and accounting for
34 such investments.~~

35 **DRAFTING NOTE:** Technical corrections. Language in subsection B, shown here as stricken, has been deleted because it is
36 precatory and of limited historical significance.

37 ~~§ 2-1-234.9:2 2.2-4701.~~ Definitions.

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

39 "Bonds" means bonds or other obligations issued by the Commonwealth, by counties, cities and towns, and by their
40 agencies, institutions, and authorities or by any combination of the foregoing under the provisions of the Public Finance Act (~~§
41 15.1-227.4 15.2-2600~~ et seq.), or otherwise, the interest on which is intended to be excludable from the gross income of the
42 recipients thereof for federal income tax purposes.

43 "Depository institution" means any commercial bank ~~or~~, trust company, ~~or~~ savings institution ~~or (building and loan
44 association)~~ insured by an agency or instrumentality of the United States government.

45 "Issuers" means the Commonwealth, counties, cities and towns in the Commonwealth, and their agencies,
46 institutions, and authorities.

47 "Official handling public funds" or "official" means the treasurer of the issuer or, if there is no officer known as
48 treasurer of the issuer, the chief financial officer of the issuer, and any person or entity described in § 58.1-3123.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§ 2-1-234.9:3 2.2-4702.~~ Powers of the Treasury Board under this chapter.

The Treasury Board shall have power to:

- 1 ~~To provide~~ Provide assistance to issuers in the management of and accounting for their funds, including, with
- 2 limitation, bond proceeds, reserves and sinking funds, and the investment thereof, any portion of the investment earnings
- 3 which is or may be subject to rebate to the federal government.
- 4 ~~For and on behalf of issuers or a pool or pools, and not for its own account, to manage~~ Manage, acquire, hold,
- 5 trade and sell investment obligations, for and on behalf of issuers or a pool or pools, and not for its own account, that are
- 6 authorized investments for issuer bond proceeds, reserves, sinking funds or other funds, as the case may be.
- 7 ~~To establish~~ Establish one or more pools of the issuer bond proceeds, reserves, sinking funds or other funds that
- 8 are placed in the custody of the State Treasurer for investment and reinvestment in authorized investments.
- 9 ~~To promulgate~~ Adopt regulations necessary and proper for the efficient administration of the pool or pools
- 10 authorized by this ~~article~~ chapter without complying with the Administrative Process Act (~~§ 9-6.14:1~~ 2.2-4000 et seq.),
- 11 provided that notice and an opportunity to submit written comments on such regulations be given to officials handling public
- 12 funds.
- 13 ~~To formulate~~ Formulate policies for the investment and reinvestment of funds under management, including funds
- 14 in the pool or pools, and the acquisition, retention, management and disposition of investments.
- 15 ~~To delegate~~ Delegate the administrative aspects ~~administration of operating under this article~~ chapter to the State
- 16 Treasurer, subject to the regulations and guidelines ~~promulgated~~ adopted by the Treasury Board.
- 17 ~~To retain~~ Retain employees and engage and enter into contracts with independent investment managers,
- 18 accountants, counsel, depository institutions and other advisors and agents, as may be necessary or convenient.
- 19 ~~To enter~~ Enter into contracts with issuers with respect to the performance of investment services.
- 20 ~~To charge~~ Charge issuers for the costs of its investment services and for its expenses.
- 21 ~~To do~~ Do any and all other acts and things necessary, appropriate or incidental in carrying out the purposes of
- 22 this ~~article~~ chapter.

23 **DRAFTING NOTE:** Technical corrections only.

24 ~~§ 2.1-234.9:4~~ 2.2-4703. Powers of issuers.

25 Any provision of any general or special law or of any charter to the contrary notwithstanding, issuers ~~shall have the~~

26 ~~power and authority to utilize~~ may use the investment services of the Treasury Board and for that purpose ~~to~~ may enter into

27 contracts with the Treasury Board and its agents.

28 **DRAFTING NOTE:** Technical corrections only.

29 ~~§ 2.1-234.9:5~~ 2.2-4704. Alternative method.

30 This ~~article~~ chapter shall be deemed to provide an additional, alternative method for the performance of actions

31 authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be

32 regarded as in derogation of any powers now existing.

33 **DRAFTING NOTE:** Technical corrections only.

34 ~~§ 2.1-234.9:6~~ 2.2-4705. Liberal construction; inconsistent laws inapplicable.

35 A. This ~~article~~ chapter, being necessary for the welfare of the people of the Commonwealth, shall be liberally

36 construed to effect the purposes thereof.

37 B. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special laws or

38 charters, or parts thereof, the provisions of this chapter shall control.

39 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection A

40 is § 2.1-234.9:6 and subsection B is § 2.1-234.9:7.

41 ~~§ 2.1-234.9:7~~ Inconsistent laws inapplicable.

42 ~~Insofar as the provisions of this article are inconsistent with the provisions of any general or special laws or charters,~~

43 ~~or parts thereof, the provisions of this article shall be controlling.~~

44 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-4705 (existing § 2.1-

45 234.9:6) supra.

46

47 CHAPTER 48.

48 VIRGINIA DEBT COLLECTION ACT.

49 ~~§ 2.1-727~~ 2.2-4800. Collection Policy of the Commonwealth; collection of accounts receivable.

1 This chapter hereby establishes the policy of the Commonwealth as it relates to the accounting for, management
2 and collection of all accounts receivable due to the Commonwealth. It shall be the policy of the Commonwealth that all state
3 agencies and institutions shall take all appropriate and cost-effective actions to aggressively collect all accounts receivable.
4 All state agencies and institutions shall be subject to this chapter and shall establish internal policies and procedures for the
5 management and collection of accounts receivable which that are in accordance with regulations promulgated-adopted by the
6 Department of Accounts and the office-Office of the Attorney General.

7 **DRAFTING NOTE:** Technical corrections only.

8 §-2.1-726 2.2-4801. Definitions.

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

10 "Administrative offset includes, but is not limited to, offsetting any monies, except those specifically exempted by
11 state or federal law, paid by agency or institution for a debt owed to any other state agency or institution."

12 "Accounts receivable" refers to the classification of debts due the Commonwealth, including judgments, fines, costs,
13 and penalties imposed upon conviction for criminal and traffic offenses, and as defined in the guidelines promulgated-adopted
14 by the State Comptroller.

15 "Discharge" means the compromise and settlement of disputes, claims, and controversies of the Commonwealth by
16 the office-Office of the Attorney General as authorized by §-2.1-127 2.2-514.

17 "Past-due" means any account receivable for which payment has not been received by the payment due date.

18 "State agency and institution" means any authority, board, department, instrumentality, agency or other unit in any
19 branch of state government. The term shall not include any county, city or town, or any local or regional governmental
20 authority or any "nonstate agency" as defined in the Appropriations Act appropriation act.

21 "Write-off" means a transaction to remove from an agency's financial accounting records an account receivable that
22 management has determined to be uncollectible.

23 **DRAFTING NOTE:** Technical corrections only. New definition received by Office of the Attorney General and Comptroller to
24 reflect current practice.

25 §-2.1-728 2.2-4802. Responsibility for accounts receivable policy; reports.

26 The Department of Accounts shall be the primary state agency responsible for the oversight, reporting and
27 monitoring of the Commonwealth's accounts receivable program.

28 The Department of Accounts shall promulgate-adopt necessary policies and procedures for reporting, accounting for,
29 and collecting the Commonwealth's accounts receivable. The Department of Accounts is also charged with promulgating
30 adopting regulations concerning guidelines and procedures for writing off accounts receivable.

31 **DRAFTING NOTE:** Technical corrections only.

32 §-2.1-729 2.2-4803. Legal counsel.

33 The Office of the Attorney General shall be the primary agency responsible for the provision of all legal services and
34 advice related to the collection of accounts receivable, pursuant to §-2.1-124 2.2-507.

35 The Attorney General shall promulgate-adopt necessary policies and procedures pertaining to all accounts
36 receivable legal matters and the litigation of past-due accounts receivable which-that shall be published together with the
37 policies and procedures promulgated-adopted by the Department of Accounts.

38 **DRAFTING NOTE:** Technical corrections only.

39 §-2.1-730 2.2-4804. Annual reports.

40 The Department of Accounts and the Attorney General shall annually report to the Governor, the Secretary of
41 Finance and the Chairmen of the Senate Committee on Finance and the House Committee on Appropriations Committees
42 those agencies and institutions which-that are not making satisfactory progress toward implementing the provisions of this
43 chapter and establishing effective accounts receivable programs.

44 **DRAFTING NOTE:** Technical corrections only.

45 §-2.1-731. Adherence to accounts receivable policies.

46 Each state agency and institution shall follow the accounts receivable policies and procedures promulgated by the
47 Department of Accounts and the Attorney General.

48 **DRAFTING NOTE:** Technical corrections. This section has been deleted as duplicative of proposed § 2.2-4800 supra.

49 §-2.1-732 2.2-4805. Interest, administrative charges and penalty fees.

1 Each state agency and institution may charge interest on all past due accounts receivable in accordance with
2 guidelines ~~promulgated-adopted~~ by the Department of Accounts and at the underpayment rate prescribed in § 58.1-15. Each
3 past due accounts receivable may also be charged an additional amount ~~which-that~~ shall approximate the administrative
4 costs, excluding ~~attorney-attorneys'~~ fees not authorized by contract, arising under ~~§-2-1-733 2.2-4806~~. Agencies and
5 institutions may also assess late penalty fees, not in excess of ten percent of the past-due account on past-due accounts
6 receivable. The Department of Accounts shall ~~promulgate-adopt~~ regulations concerning the imposition of ~~such~~ administrative
7 charges and late penalty fees.

8 **DRAFTING NOTE:** Technical corrections only.

9 ~~§-2-1-733 2.2-4806~~. Utilization of certain collection techniques.

10 Each state agency and institution shall take all appropriate and cost-effective actions to aggressively collect its
11 accounts receivable. Each agency and institution shall utilize, but not be limited to, the following collection techniques,
12 according to the policies and procedures ~~promulgated-adopted~~ by the Department of Accounts and the Attorney General: (i)
13 credit reporting bureaus, (ii) collection agencies, (iii) garnishments, liens and judgments, and (iv) administrative offset.

14 **DRAFTING NOTE:** Technical corrections only.

15 ~~§-2-1-734 2.2-4807~~. Debtor information and skip-tracing.

16 Each agency and institution shall collect minimum prescribed information from clients, debtors, and payees. Debtor
17 information available from state agencies, credit reporting bureaus and other appropriate sources shall be used for the
18 purpose of skip-tracing debtors, as specified in the guidelines of the Department of Accounts and the Attorney General. The
19 minimum prescribed information to be collected shall include the federal employer identification number of partnerships,
20 proprietorships, and corporate clients, debtors, and payees. This minimum prescribed information shall be included in the
21 contract payment clause required by ~~§-11-62-14 2.2-4354~~. The Department of Accounts may require that the minimum
22 prescribed information be supplied on any request for payment, including invoices.

23 **DRAFTING NOTE:** Technical corrections only.

24 ~~§-2-1-735 2.2-4808~~. Provision of state services to delinquent debtors.

25 Each state agency and institution shall develop internal policies and procedures, in accordance with accounts
26 receivable policies of the Department of Accounts and the Attorney General, for delaying or withholding certain state services
27 to those persons who refuse to pay their debts.

28 **DRAFTING NOTE:** Technical corrections only.

29 CHAPTER 49.

30 PUBLIC DEBT; ISSUANCE OF BONDS AND CERTIFICATES OF INDEBTEDNESS.

31 ~~§-2-1-303 2.2-4900~~. Authority of Governor to contract debts.

32 The Governor ~~shall have the authority to may~~ contract debts, and ~~to~~ issue obligations in evidence thereof upon ~~such~~
33 ~~the terms and conditions as-determined by~~ the Governor ~~shall determine~~, to meet casual deficits in the revenue or in
34 anticipation of the collection of revenues of the Commonwealth for the then current fiscal year within the amount of authorized
35 appropriations, subject to the limitations and conditions of Article X, Section 9 (a) (2) of the Constitution of Virginia. The
36 Governor may sell such obligations in ~~such-a~~ manner, either at public or private sale, and for ~~such-a~~ price as he ~~may~~
37 ~~determine-determines~~ to be ~~for-in~~ the best interests of the Commonwealth.

38 **DRAFTING NOTE:** Technical corrections only.

39 ~~§-2-1-304 2.2-4901~~. Acts concerning issuance of bonds and certificates of indebtedness continued in effect.

40 The following sections of the Code of 1919 and the following subsequent acts, all relating to the issue and terms of,
41 and provisions with respect to certain bonds or certificates of indebtedness of the Commonwealth, are continued in effect.

42 (1) Sections 2584 to 2602, inclusive, of the Code of 1919;

43 (2) Chapter 93 of the Acts of 1927, approved April 18, 1927;

44 (3) Chapter 91 of the Acts of 1932, approved March 3, 1932, codified as §§ 2641 (1)-2641 (11) of Michie Code 1942;

45 and

46 (4) Chapter 203 of the Acts of 1936, approved March 14, 1936.

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§-2-1-304.1:1 2.2-4902~~. Ratings of bonds issued by governmental instrumentalities.

49 A. As used in this section ~~the term~~, unless the context requires a different meaning:

"Bond" means any bond, note, or other obligation evidencing debt.

"Governmental instrumentality" means each department, institution, commission, public corporate instrumentality, or agency of the Commonwealth, including the Commonwealth itself, and each political subdivision thereof, including but without limitation each public authority and district and each county, city or town and each instrumentality thereof which under law has the power to issue bonds.

B. Notwithstanding any provision contained in any general or special law or in any charter of any county, city or town of ~~this the~~ Commonwealth, any rating of bonds issued by a governmental instrumentality shall be provided by a bond rating agency approved by the State Treasurer.

C. In addition to all of his other powers and duties, the State Treasurer ~~is hereby authorized and directed to shall~~ prepare a list of approved bond rating agencies and upon request ~~to provide~~ a copy thereof to all governmental instrumentalities.

DRAFTING NOTE: Technical corrections only.

~~§ 2.1-304.2. Debt Capacity Advisory Committee created; membership.~~

~~The Debt Capacity Advisory Committee is hereby created. The membership shall consist of the Secretary of Finance; the State Treasurer; the Director of the Department of Planning and Budget; the Auditor of Public Accounts; the Director of the Joint Legislative Audit and Review Commission; and two citizen members who have expertise in financial matters to be appointed by the Governor.~~

~~The Secretary of Finance shall be the chairperson of the Committee. The Department of Treasury shall serve as staff to the Committee.~~

~~Of the citizen members appointed for terms beginning July 1, 1994, one shall be appointed for an initial term of three years and the other for an initial term of five years. Successors shall be appointed to serve for terms of four years each. Vacancies occurring other than by expiration of term shall be filled by appointment of the Governor for the remainder of the unexpired term. All appointments shall be subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and qualified.~~

~~All members of the Debt Capacity Advisory Committee shall serve without compensation. Citizen members shall receive necessary and reasonable expenses incurred in performing their duties as members of the Debt Capacity Advisory Committee.~~

DRAFTING NOTE: Technical corrections. This section now appears in Part D of Subtitle 1 under the heading of "Foundations and Other Collegial Bodies."

~~§ 2.1-304.3. Powers and duties.~~

~~The Committee shall have the power and duty to:~~

~~1. Annually review the size and condition of the Commonwealth's tax-supported debt and submit to the Governor and to the General Assembly an estimate of the maximum amount of new tax-supported debt that prudently may be authorized for the next biennium. The estimate shall be advisory and in no way bind the Governor or the General Assembly;~~

~~2. Annually review the amount and condition of bonds, notes, and other security obligations of the Commonwealth's agencies, institutions, boards, and authorities, for which the (i) Commonwealth has a contingent or limited liability or (ii) General Assembly is permitted to replenish reserve funds if deficiencies occur, and submit to the Governor and the General Assembly an annual report with the Committee's recommendation to ensure the prudent use of such obligations. Such review shall be submitted on or before January 1 of each year; and~~

~~3. Conduct ongoing reviews of the amount and condition of bonds, notes, and other security obligations of the Commonwealth's agencies, institutions, boards, and authorities not secured by the full faith and credit of the Commonwealth or for which the General Assembly is not permitted to replenish reserve funds, and when appropriate, shall recommend limits on such additional obligations to the Governor and to the General Assembly.~~

DRAFTING NOTE: Technical corrections. This section now appears in Part D of Subtitle 1 under the heading of "Foundations and Other Collegial Bodies."

~~§ 2.1-304.4. Estimated amount of prudent tax-supported debt; affordability considerations.~~

~~Before January 1 of each year, the Committee shall submit to the Governor and to the General Assembly the Committee's estimate of tax-supported debt which prudently may be authorized for the next fiscal year, together with a report explaining the basis for the estimate. In developing its annual estimate and in preparing its annual report, the Committee shall, at a minimum, consider:~~

~~1. The amount of tax-supported debt that, during the next fiscal year and annually for the following nine fiscal years (i) will be outstanding and (ii) has been authorized but not yet issued;~~

1 ~~2. A projected schedule of affordable, state tax supported debt authorizations for the next biennium. The~~
2 ~~assessment of the affordability of the projected authorizations shall include but not be limited to the considerations specific~~
3 ~~in this section;~~

4 ~~3. Projected debt service requirements during the next fiscal year and annually for the following nine fiscal years~~
5 ~~based upon (i) existing outstanding debt, (ii) previously authorized but unissued debt, and (iii) projected bond authorizations;~~

6 ~~4. The criteria that recognized bond rating agencies use to judge the quality of issues of Commonwealth bonds;~~

7 ~~5. Any other factor that is relevant to (i) the ability of the Commonwealth to meet its projected debt service~~
8 ~~requirements for the next two fiscal years; (ii) the ability of the Commonwealth to support additional debt service in the~~
9 ~~upcoming biennium; (iii) the requirements of the statewide capital plan; and (iv) the interest rate to be borne by, the credit~~
10 ~~rating on, or any other factor affecting the marketability of such bonds; and~~

11 ~~6. The effect of authorizations of new tax supported debt on each of the considerations of this section.~~

12 **DRAFTING NOTE:** Technical corrections. This section now appears in Part D of Subtitle 1 under the heading of "Foundations
13 and Other Collegial Bodies."

14 ~~§ 2-1-304.5 2.2-4903.~~ Governor's consideration of tax-supported debt.

15 Prior to the Governor recommending any new tax-supported debt, which is defined as debt for which the debt
16 service payments are expected to be made, in whole or in part, from appropriations of the Commonwealth, the Governor shall
17 consider the maximum amount of debt recommended as prudent for the subject biennium by the Debt Capacity Advisory
18 Committee created pursuant to § 2.2-2712.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§ 2-1-304.6 2.2-4904.~~ Cooperation of the Commonwealth's instrumentalities.

21 All Commonwealth debt-issuing agencies, institutions, boards, and authorities shall quarterly provide the State
22 Treasurer with all information necessary to carry out the requirements of this ~~article~~ chapter. The Departments of Accounts,
23 Planning and Budget, and Taxation and other state agencies shall also provide the State Treasurer with the information and
24 assistance the Debt Capacity Advisory Committee deems necessary.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§ 2-1-304.7 2.2-4905.~~ Limitation of ~~article~~ chapter.

27 This ~~article~~ chapter shall not limit or alter the rights of the Commonwealth or any of its instrumentalities to fulfill the
28 terms of any agreements made with the holders of any bonds, notes, or other obligations of the Commonwealth or such
29 instrumentality issued and outstanding prior to July 1, 1994, or to in any way impair the rights and remedies of such holders.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2-1-343 2.2-4906.~~ How lost bond or certificate renewed.

32 When any bond or certificate ~~shall be is~~ lost or destroyed, the owner thereof may:

33 1. File in the office of the State Treasurer an affidavit, setting forth the time, place and circumstance of the loss or
34 destruction; and

35 2. Execute a bond to the Commonwealth, with one or more sureties, approved by the State Treasurer, with condition
36 to indemnify the Commonwealth and all persons against any loss in consequence of issuing a new bond or certificate in place
37 of the one so lost or destroyed.

38 If the owner performs these acts, the State Treasurer may issue, at any time before ~~each the~~ bond or certificate
39 becomes due and payable, or at any time as to any such bond or certificate ~~which that~~ has become due and payable on or
40 after July 1, 1932, a new bond or certificate and register the same.

41 **DRAFTING NOTE:** Technical corrections only.

42 43 CHAPTER 50.

44 INTEREST ON CERTAIN OBLIGATIONS OF GOVERNMENT INSTRUMENTALITIES.

45 ~~§ 2-1-326.1 2.2-5000.~~ Governmental instrumentalities authorized to issue bonds, etc., at rates of interest in excess of
46 legal limits; sale of such bonds.

47 A. Notwithstanding any limitation contained in any general or special law or in any charter of any city or town of this
48 the Commonwealth, each department, institution, commission, public corporate instrumentality, agency of the Commonwealth
49 of Virginia, including the Commonwealth itself, and each political subdivision thereof, including but without limitation of
50 public authority and district and each county, city or town and each instrumentality thereof (herein each called

1 ~~"governmental instrumentality") a governmental instrumentality, which under law has the power to issue bonds, notes or other~~
2 ~~obligations (herein collectively called "bonds") to provide funds to carry out its public purposes, is hereby authorized to may~~
3 ~~issue such bonds at such rate or rates of interest in excess of the rate or rates now permitted by law as may be determined~~
4 ~~by the governing body empowered under law to authorize the issuance of bonds of such governmental instrumentality and to~~
5 ~~sell such the bonds for such a price as it may determine determines to be for the best interests of the Commonwealth of~~
6 ~~Virginia and of such governmental instrumentality.~~

7 B. For the purposes of this chapter, "governmental instrumentality" means each department, institution, commission,
8 public corporate instrumentality or agency of the Commonwealth and every political subdivision of the Commonwealth
9 including, but not limited to, each public authority and district and each county, city or town or instrumentality thereof.

10 **DRAFTING NOTE:** Technical corrections only.

11 § 2-1-326.2 2.2-5001. Manner of exercising authority.

12 The authority vested in governmental instrumentalities under the provisions of § ~~2-1-326.4~~ this chapter may be
13 exercised by the body authorized to issue such bonds without securing the further approval of any other body, board or
14 agency ~~which that~~ may have approved the issuance of such bonds and, in the case of bonds approved by election, without a
15 further election, unless a lower maximum rate of interest was stated in the approval of such other body, board or agency or
16 was stated on the ballot of such election.

17 **DRAFTING NOTE:** Technical corrections only.

18 § 2-1-326.2-4 2.2-5002. Power to issue obligations not to be denied because interest is subject to federal income
19 taxation.

20 The power of any governmental instrumentality, ~~as defined in § 2-1-326.4,~~ to issue or have issued on its behalf for
21 authorized purposes, bonds, notes, certificates or other evidences of indebtedness, shall not be construed to be restricted or
22 limited solely because the interest thereon is subject, in whole or in part, directly or indirectly, to federal income taxes.

23 **DRAFTING NOTE:** Technical corrections only.

24 § 2-1-326.3 2.2-5003. Chapter controlling over inconsistent laws; powers supplemental.

25 Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this
26 chapter shall be controlling and the powers conferred by this chapter shall be in addition and supplemental to the powers
27 conferred by any other law.

28 **DRAFTING NOTE:** Technical corrections only.

29 CHAPTER 51.

30 VIRGINIA INVESTMENT PARTNERSHIP ACT.

31 § 2-1-548.43-4 2.2-5100. Short title; definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 "Partnership" means the Virginia Economic Development Partnership.

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

24 "Secretary" means the Secretary of Commerce and Trade.

25 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
26 A is § 2.1-548.43:1 and subsection B is § 2.1-548.43:2.

27 § 2.1-548.43:2. Definitions.

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

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

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

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

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

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

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

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

50 "Fund" means the Virginia Investment Partnership Grant Fund, comprised of (i) the Major Eligible Employer Grant
51 subfund and (ii) the Investment Performance Grant subfund, created pursuant to § 2.1-548.43:6.

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

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

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

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

15 "~~Partnership~~" means ~~the Virginia Economic Development Partnership.~~

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

17 "~~Secretary~~" means ~~the Secretary of Commerce and Trade.~~

18 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-5100 supra.

19 ~~§ 2.1-548.43:3 2.2-5101.~~ Virginia Investment Performance Grants.

20 A. Subject to the appropriation by the General Assembly of sufficient moneys to the Investment Performance Grant
21 subfund, any eligible manufacturer that is not eligible for a major eligible employer grant under ~~§ 2.1-548.43:4 2.2-5102~~ shall
22 be eligible for an investment performance grant as provided in this section.

23 B. The Partnership shall establish an application process by which eligible manufacturers may apply for a grant
24 under this section. An application for a grant under this section shall not be approved until the Partnership has verified that
25 the capital investment has been completed.

26 C. The amount of the investment performance grant that an eligible manufacturer shall be eligible to receive under
27 this section shall be determined by the Secretary, based on the recommendation of the Partnership, and contingent upon
28 approval by the Governor. The determination of the appropriate amount of an investment performance grant shall be based
29 on the application of guidelines that establish criteria for correlating the amount of a grant to the relative value to the
30 Commonwealth of the eligible investment.

31 D. The Partnership shall assist the Secretary in developing objective guidelines ~~which that~~ shall be used in awarding
32 investment performance grants. No grant shall be awarded until the Secretary has provided copies of such guidelines for
33 review to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance ~~Committees~~. The
34 preparation of the guidelines shall be exempt from the requirements of Article 2 (~~§ 2.2-4000 et seq.~~ ~~§ 2.2-4006~~ et seq.) of the
35 Administrative Process Act (§ 2.2-4000 et seq.). The guidelines shall require determinations regarding the amount of
36 investment performance grants to address:

- 37 1. The number of new jobs created by the capital investment;
- 38 2. The wages paid for the new jobs and the amount by which wages exceed the average manufacturing wage for the
39 locality or region;
- 40 3. The extent to which the capital investment produces (i) measurable increases in capacity, productivity, or both,
41 and/or (ii) measurable decreases in the production of flawed product;
- 42 4. The amount of the capital investment;
- 43 5. The net present value of benefits to Virginia;
- 44 6. The amount of other incentives offered by the Commonwealth and the locality; and
- 45 7. The importance of the manufacturing facility to the economy of the locality or region.

46 The guidelines shall also address the eligibility of manufacturers that make a capital investment in phases over a
47 period of years, and limits on eligibility for multiple grants by the same manufacturer within stated periods of time.

48 E. The amount of an investment performance grant to any eligible manufacturer under this section shall not exceed
49 \$3 million or ten percent of the amount appropriated by the General Assembly to the Investment Performance Grant subfund
50 in the year that the terms of a grant are determined. Under no circumstances shall an eligible manufacturer be eligible for a
51 grant under this ~~article~~ chapter of more than \$25 million.

52 F. The aggregate amount of investment performance grants approved under this section in any year shall not
exceed \$6 million, and the aggregate amount of grants outstanding to all eligible manufacturers under this section for all
years shall at no time exceed \$30 million. The annual obligations of the Commonwealth to make grant payments to individual
eligible manufacturers under this section shall not exceed \$600,000.

1 G. Any eligible manufacturer shall be eligible to receive a grant from the Fund in five equal installments beginning
2 the sixth year after the capital investment is completed and the Partnership has verified that the requirements applicable
3 such grant have been satisfied.

4 **DRAFTING NOTE:** Technical corrections only.

5 | § ~~2-1-548.43:4~~ 2.2-5102. Performance grant for major eligible manufacturers.

6 A. As used in this section, "major eligible employer" means any eligible manufacturer or other nonmanufacturing
7 basic employer that makes a capital investment of at least \$100 million that results in the creation of at least 1,000 new jobs.
8 | All other provisions of this ~~article-chapter~~ shall apply equally to major eligible manufacturers and major eligible
9 nonmanufacturing basic employers, in this chapter collectively referred to as "major eligible employers."

10 B. Subject to the appropriation by the General Assembly of sufficient moneys to the Major Eligible Employer Grant
11 subfund, any major eligible employer shall be eligible for a grant under this section of \$25 million, to be payable from such
12 subfund over a period of not less than five years and not more than seven years, commencing in the sixth year following the
13 approval by the Secretary of the employer's grant application.

14 C. The Partnership shall establish an application process by which major eligible employers may apply for a grant
15 under this section. An application for a grant under this section shall not be approved until the Partnership has verified that
16 the capital investment has been completed.

17 D. The Comptroller shall not draw any warrants to issue checks for grants under this ~~article-chapter~~ without a
18 specific legislative appropriation as specified in conditions and restrictions on expenditures in the ~~appropriations-appropriation~~
19 act. The payment of any grant under this section shall be in accordance with the terms and conditions set forth in a
20 memorandum of understanding between a major eligible employer and the Commonwealth. These terms and conditions shall
21 supplement the provisions of this ~~article-chapter~~ and shall include but not be limited to the terms of the payment of the grant.
22 The payment of the grant shall be made in full or in proportion to a major eligible employer's fulfillment of the terms of the
23 memorandum of understanding. The Secretary shall consult with the House Committee on Appropriations ~~Committee~~ and the
24 Senate Committee on Finance ~~Committee~~ prior to entering into any memorandum of understanding. The House Committee
25 on Appropriations ~~Committee~~ and the Senate Committee on Finance ~~Committee~~ shall have the opportunity to review any
26 memorandum of understanding prior to its execution by the Commonwealth.

27 **DRAFTING NOTE:** Technical corrections only.

28 | § ~~2-1-548.43:5~~ 2.2-5103. Requirements for grants generally.

29 A. Any eligible manufacturer eligible to apply for a grant under this ~~article-chapter~~ shall provide evidence, satisfactory
30 to the Secretary, of the amount of the capital investment, the number of new jobs created as a result of the capital investment
31 and such other evidence that requirements of this article have been satisfied. An eligible manufacturer whose application has
32 been approved shall continue to comply with the requirements for grant eligibility during the grant payment period. The
33 Partnership shall verify that the conditions for approval of any grant have been satisfied.

34 B. Prior to any grant payment, the Partnership shall certify to (i) the Comptroller and (ii) each applicant the amount of
35 the grant to which such applicant is entitled. Subject to the appropriation by the General Assembly of sufficient moneys to the
36 appropriate subfund, payment of such grant shall be made from the subfund by check issued by the State Treasurer on
37 warrant of the Comptroller within sixty days of ~~such~~ certification.

38 C. As a condition of receipt of a grant, a major eligible employer shall make available to the Partnership for
39 inspection upon request all relevant and applicable documents to determine whether the requirements for the receipt of
40 grants as set forth in this ~~article-chapter~~ have been satisfied. All such documents appropriately identified by the major eligible
41 ~~manufacturer-employer~~ shall be considered confidential and proprietary.

42 D. Within thirty days of each calendar quarter, the Secretary shall provide a report to the chairmen of the House
43 Committee on Appropriations and the Senate Committee on Finance ~~Committees which that~~ shall include, but is not limited
44 to, the following information: the name of the eligible manufacturer determined to be eligible for a grant; the product it
45 manufactures; the locality of the manufacturing facility; the amount of the grant made or committed from the Fund; the number
46 of new jobs created or projected to be created; the amount of the manufacturer's capital investment; and the timetable for the
47 completion of the capital investment and new jobs created.

48 E. The Secretary shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount
49 contained in the Fund. If funds are committed for years beyond the fiscal years covered under the existing appropriation act,
50 the State Treasurer shall set aside and reserve such funds as have been committed, and such funds shall remain in the Fund
51 for those future fiscal years. No grant shall be payable in the years beyond the existing appropriation act unless such funds
52 are currently available in the Fund.

53 **DRAFTING NOTE:** Technical corrections only.

54 | § ~~2-1-548.43:6~~ 2.2-5104. Virginia Investment Partnership Grant Fund.

1 A. There is hereby established a special fund in the state treasury to be known as the Virginia Investment
2 Partnership Grant Fund. The Fund shall consist of the Major Eligible Employer Grant subfund and the Investment
3 Performance Grant subfund. Each subfund shall include such moneys as may be appropriated by the General Assembly from
4 time to time and designated for the respective subfund. The Fund shall be used solely for the payment of investment incentive
5 grants to existing Virginia manufacturers pursuant to this ~~article~~ chapter. The Partnership shall administer the Virginia
6 Investment Partnership Grant Fund.

7 B. The Partnership shall allocate, from the appropriate subfund, moneys in the following order of priority: (i) first to
8 unpaid grant amounts carried forward from prior years because eligible manufacturers did not receive the full amount of any
9 grant to which they were eligible in a prior year and (ii) then to other approved applicants. If the moneys in the Fund are less
10 than the amount of grants to which approved applicants in any class of priority are eligible, the moneys in the appropriate
11 subfund shall be apportioned pro rata among eligible applicants in such class, based upon the amount of the grant to which
12 an approved applicant is eligible and the amount of money in the subfund available for allocation to such class.

13 C. If a grant recipient is allocated less than the full amount of a grant to which it is eligible in any year, ~~such~~
14 ~~manufacturer~~ it shall not be eligible for the deficiency in that year, but the unpaid portion of the grant to which it was eligible
15 shall be carried forward by the Partnership to the following year, during which it shall be in the first class of priority as
16 provided in clause (i) of subsection B.

17 D. The Partnership shall determine the amount of the grants to be allocated to eligible applicants by June 30 of each
18 year. The Partnership shall then certify to the Comptroller the amount of grant an eligible manufacturer shall receive.
19 Payments shall be made by check issued by the State Treasurer on warrant of the Comptroller.

20 E. All excess funds remaining in any given year shall be carried forward on the books of the Fund for use in
21 subsequent years.

22 F. Actions of the Partnership relating to the allocation and awarding of grants shall be exempt from the provisions of
23 the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B, 4, of ~~§ 9-6-14-4-1 2.2-4006~~.

24 **DRAFTING NOTE:** Technical corrections only.

25 CHAPTER 52.

26 COMPREHENSIVE SERVICES ACT FOR AT-RISK YOUTH AND FAMILIES.

27 ~~§ 2-1-745~~ 2.2-5200. Intent and purpose; definitions.

28 A. It is the intention of this law to create a collaborative system of services and funding that is child-centered, family-
29 focused and community-based when addressing the strengths and needs of troubled and at-risk youths and their families in
30 the Commonwealth.

31 This law shall be interpreted and construed so as to effectuate the following purposes:

32 1. Ensure that services and funding are consistent with the Commonwealth's policies of preserving families and
33 providing appropriate services in the least restrictive environment, while protecting the welfare of children and maintaining the
34 safety of the public;

35 2. Identify and intervene early with young children and their families who are at risk of developing emotional or
36 behavioral problems, or both, due to environmental, physical or psychological stress;

37 3. Design and provide services that are responsive to the unique and diverse strengths and needs of troubled youths
38 and families;

39 4. Increase interagency collaboration and family involvement in service delivery and management;

40 5. Encourage a public and private partnership in the delivery of services to troubled and at-risk youths and their
41 families; and

42 6. Provide communities flexibility in the use of funds and to authorize communities to make decisions and be
43 accountable for providing services in concert with these purposes.

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

45 "CSA" means the Comprehensive Services Act.

46 "Council" means the State Executive Council for Comprehensive Services for At-Risk Youth and Families created
47 pursuant to § 2.2-2648.

48 **DRAFTING NOTE:** Technical corrections. Subsection A is not set out in the Code, but is set out here as part of the title
49 revision. Definitions of "CSA" and "Council" were added to this proposed section as subsection B to reduce the need for
50 repetitive language.

51 ~~§ 2-1-746. State Executive Council for Comprehensive Services for At-Risk Youth and Families; members; duties.~~

52 ~~The members of the state executive council shall be the Commissioners of Health, of Mental Health, Mental~~
53 ~~Retardation and Substance Abuse Services and of Social Services; the Superintendent of Public Instruction; the Executive~~

1 Secretary of the Virginia Supreme Court; the Director of the Department of Juvenile Justice; the Director of the Department of
2 Medical Assistance Services; two local government representatives to include a member of a county board of supervisors or
3 a city council and a county administrator or city manager, to be appointed by the Governor; a private provider representative
4 from a facility that maintains membership in an association of providers for children's or family services and receives funding
5 as authorized by this chapter, to be appointed by the Governor, who may appoint from nominees recommended by the
6 Virginia Coalition of Private Provider Associations; and a parent representative. The parent representative shall be appointed
7 by the Governor for a term not to exceed three years and shall not be an employee of any public or private program which
8 serves children and families. The council shall annually elect a chairman who shall be responsible for convening the council.
9 The council shall meet, at a minimum, quarterly, to oversee the administration of this chapter and make such decisions as
10 may be necessary to carry out its purposes.

11 The state executive council shall:

12 1. Hire and supervise a director of the Office of Comprehensive Services for At-Risk Youth and Families;

13 2. Appoint the members of the state and local advisory team in accordance with the requirements of § 2.1-747;

14 3. Provide for the establishment of interagency programmatic and fiscal policies developed by the Office of
15 Comprehensive Services for At-Risk Youth and Families, which support the purposes of this chapter, through the
16 promulgation of regulations by the participating state boards or by administrative action, as appropriate;

17 4. Provide for a public participation process for programmatic and fiscal guidelines developed for administrative
18 actions which support the purposes of this chapter. Such public participation process shall include, at a minimum, sixty days
19 of public comment, and the distribution of these guidelines;

20 5. Oversee the administration of state policies governing the use, distribution and monitoring of moneys in the state
21 pool of funds and the state trust fund;

22 6. Provide for the administration of necessary functions which support the work of the Office of Comprehensive
23 Services for At-Risk Youth and Families;

24 7. Review and take appropriate action on issues brought before it by the Office of Comprehensive Services for At-
25 Risk Youth and Families;

26 8. Advise the Governor and appropriate Cabinet Secretaries on proposed policy and operational changes which
27 facilitate interagency service development and implementation, communication and cooperation;

28 9. Provide administrative support and fiscal incentives for the establishment and operation of local comprehensive
29 service systems;

30 10. Oversee coordination of early intervention programs to promote comprehensive, coordinated service delivery,
31 local interagency program management, and colocation of programs and services in communities. Early intervention
32 programs include state programs under the administrative control of the state executive council member agencies;

33 11. Oversee the development and implementation of a mandatory uniform assessment instrument and process to be
34 used by all localities to identify levels of risk of Comprehensive Services Act (CSA) youth;

35 12. Oversee the development and implementation of uniform guidelines to include initial intake and screening
36 assessment, development and implementation of a plan of care, service monitoring and periodic follow up, and the formal
37 review of the status of the youth and the family;

38 13. Oversee the development and implementation of uniform guidelines for documentation for CSA funded services;

39 14. Oversee the development and implementation of mandatory uniform guidelines for utilization management; each
40 locality receiving funds for activities under the Comprehensive Services Act shall have a locally determined utilization
41 management plan following the guideline or use of a process approved by the State Executive Council for utilization
42 management, covering all CSA funded services;

43 15. Oversee the development, implementation, and collection of uniform data collection standards, and the
44 development of outcome measures; including, but not limited to, expenditures, number of youth served in specific CSA
45 activities, length of stay for residents in core licensed residential facilities, and proportion of youth placed in treatment settings
46 suggested by a uniform assessment instrument for CSA funded services;

47 16. Oversee the establishment of a dispute resolution procedure, which includes a notice and an appeals process,
48 should the State Executive Council find, upon a formal finding, that a Community Policy and Management Team (CPMT)
49 failed to comply with any provision of this Act, and the procedure shall also include provisions for remediation by the CPMT;

50 17. Have the authority to deny state funding to a CPMT that fails to comply with the provisions of this Act, in
51 accordance with subdivision 16; and

52 18. Biennially publish and disseminate to members of the General Assembly and community policy and
53 management teams a state progress report on comprehensive services to children, youth and families and a plan for such
54 services for the next succeeding biennium. The state plan shall:

55 a. Provide a fiscal profile of current and previous years' federal and state expenditures for a comprehensive service
56 system for children, youth and families;

2 ~~b. Incorporate information and recommendations from local comprehensive service systems with responsibility for~~
3 ~~planning and delivering services to children, youth and families;~~

4 ~~c. Identify and establish goals for comprehensive services and the estimated costs of implementing these goals,~~
5 ~~report progress toward previously identified goals and establish priorities for the coming biennium; and~~

6 ~~d. Include such other information or recommendations as may be necessary and appropriate for the improvement~~
7 ~~and coordinated development of the state's comprehensive services system.~~

7 **DRAFTING NOTE:** Technical corrections. This section now appears in Part D of Subtitle 1, under the heading of "Councils."

8 ~~§-2-1-747 2.2-5201. (For effective date—See note.) State and local advisory team; appointment; membership.~~

9 The state and local advisory team is hereby established to better serve the needs of troubled and at-risk youths and
10 their families by advising the ~~state executive council~~ Council by managing cooperative efforts at the state level and providing
11 support to community efforts. The team shall be appointed by and be responsible to the ~~state executive council~~ §-2-1-746
12 Council. The team shall include one representative from each of the following state agencies: the Department of Health,
13 Department of Juvenile Justice, Department of Social Services, Department of Mental Health, Mental Retardation and
14 Substance Abuse Services, and the Department of Education. The team shall also include a parent representative who is not
15 an employee of any public or private program which serves children and families; a representative of a private organization or
16 association of providers for children's or family services; a local Comprehensive Services Act coordinator or program
17 manager; a juvenile and domestic relations district court judge; and one member from each of five different geographical
18 areas of the Commonwealth and who serves on and is representative of the different participants of community policy and
19 management teams. The nonstate agency members shall serve staggered terms of not more than three years, such terms to
20 be determined by the ~~state executive council~~ Council.

21 The team shall annually elect a chairman who shall be responsible for convening the team. The team shall develop
22 and adopt bylaws to govern its operations which ~~that~~ shall be subject to approval by the ~~state executive council~~ Council. Any
23 person serving on such team who does not represent a public agency shall file a statement of economic interests as set out
24 in ~~§-2-1-639.15 2.2-3117~~ of the State and Local Government Conflict of Interests Act (~~§-2-1-639.1- 2.2-3100~~ et seq.). Persons
25 representing public agencies shall file such statements if required to do so pursuant to the State and Local Government
26 Conflict of Interests Act.

DRAFTING NOTE: Technical corrections only.

28 ~~§-2-1-748 2.2-5202. State and local advisory team; powers and duties.~~

29 The state and local advisory team ~~is authorized to~~ may:

30 1. Advise the ~~state executive council~~ Council interagency program on state policies which ~~that~~ promote and support
31 cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and
32 local levels;

33 2. Advise the ~~state executive council~~ Council on state interagency fiscal policies that promote and support
34 cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and
35 local levels;

36 3. Advise state agencies and localities on training and technical assistance necessary for the provision of efficient
37 and effective services that are responsive to the strengths and needs of troubled and at-risk youths and their families; and

38 4. Advise the ~~state executive council~~ Council on the impacts of proposed policies, regulations and guidelines.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§-2-1-749 2.2-5203. Duties of agencies represented on state management and local advisory team.~~

41 The state agencies represented on the state ~~management and local advisory~~ team shall provide administrative
42 support for the team in the development and implementation of the collaborative system of services and funding authorized
43 by this chapter. This support shall also include, but not be limited to, the provision of timely fiscal information, data for client-
44 and service-tracking, and assistance in training local agency personnel on the system of services and funding established by
45 this chapter.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§-2-1-750 2.2-5204. Community policy and management team; appointment; fiscal agent.~~

48 Every county, city, or combination of counties, cities, or counties and cities shall establish a community policy and
49 management team in order to receive funds pursuant to this chapter. Each such team shall be appointed by the governing
50 body of the participating local political subdivision establishing the team. In making such appointments, the governing body
shall ensure that the membership is appropriately balanced among the representatives required to serve on the team in
accordance with ~~§-2-1-751 2.2-5205~~. When any combination of counties, cities or counties and cities establishes a community
51 policy and management team, the board of supervisors of each participating county or the council in the case of each

1 participating city shall jointly establish the size of the team and the type of representatives to be selected from each locality
2 accordance with ~~§ 2-1-754~~ 2.2-5205. The governing bodies of each participating county and city served by the team sh
3 appoint the designated representatives from their localities. The participating governing bodies shall jointly designate an
4 official of one member city or county to act as fiscal agent for the team.

5 The county or city ~~which that~~ comprises a single team and the county or city whose designated official serves as the
6 fiscal agent for the team in the case of joint teams shall annually audit the total revenues of the team and its programs. The
7 county or city ~~which that~~ comprises a single team and any combination of counties or cities establishing a team shall arrange
8 for the provision of legal services to the team.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 2-1-754~~ 2.2-5205. Community policy and management teams; membership; immunity from liability.

11 The community policy and management team to be appointed by the local governing body shall include, at a
12 minimum, at least one elected official or appointed official or his designee from the governing body of a locality ~~which that~~ is a
13 member of the team, and the local agency heads or their designees of the following community agencies: community services
14 board established pursuant to § 37.1-195, juvenile court services unit, department of health, department of social services
15 and the local school division. The team shall also include a representative of a private organization or association of providers
16 for children's or family services if such organizations or associations are located within the locality, and a parent
17 representative. Parent representatives who are employed by a public or private program ~~which that~~ receives funds pursuant
18 to this chapter or agencies represented on a community policy and management team may serve as a parent representative
19 provided that they do not, as a part of their employment, interact directly on a regular and daily basis with children or
20 supervise employees who interact directly on a daily basis with children. Notwithstanding this provision, foster parents may
21 serve as parent representatives. Those persons appointed to represent community agencies shall be authorized to make
22 policy and funding decisions for their agencies.

23 The local governing body may appoint other members to the team including, but not limited to, a local government
24 official, a local law-enforcement official and representatives of other public agencies.

25 When any combination of counties, cities or counties, and cities establishes a community policy and management
26 team, the membership requirements previously set out shall be adhered to by the team as a whole.

27 Persons who serve on the team shall be immune from any civil liability for decisions made about the appropriate
28 services for a family or the proper placement or treatment of a child who comes before the team, unless it is proven that su
29 person acted with malicious intent. Any person serving on such team who does not represent a public agency shall file
30 statement of economic interests as set out in ~~§ 2-1-639.4~~ 2.2-3117 of the State and Local Government Conflict of Interests
31 Act (~~§ 2-1-639.4~~ 2.2-3100 et seq.). Persons representing public agencies shall file such statements if required to do so
32 pursuant to the State and Local Government Conflict of Interests Act.

33 Persons serving on the team who are parent representatives or who represent private organizations or associations
34 of providers for children's or family services shall abstain from decision-making involving individual cases or agencies in
35 which they have either a personal interest, as defined in ~~§ 2-1-639.2~~ 2.2-3101 of the State and Local Government Conflict of
36 Interests Act, or a fiduciary interest.

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 2-1-752~~ 2.2-5206. Community policy and management teams; powers and duties.

39 The community policy and management team shall manage the cooperative effort in each community to better serve
40 the needs of troubled and at-risk youths and their families and to maximize the use of state and community resources. Every
41 such team shall:

42 1. Develop interagency policies and procedures to govern the provision of services to children and families in its
43 community;

44 2. Develop interagency fiscal policies governing access to the state pool of funds by the eligible populations
45 including immediate access to funds for emergency services and shelter care;

46 3. Establish policies to assess the ability of parents or legal guardians to contribute financially to the cost of services
47 to be provided and, when not specifically prohibited by federal or state law or regulation, provide for appropriate parental or
48 legal guardian financial contribution, utilizing a standard sliding fee scale based upon ability to pay;

49 4. Coordinate long-range, community-wide planning ~~which that~~ ensures the development of resources and services
50 needed by children and families in its community including consultation on the development of a community-based system of
51 services established under § 16.1-309.3;

52 5. Establish policies governing referrals and reviews of children and families to the family assessment and planning
53 teams and a process to review the teams' recommendations and requests for funding;

54 6. Establish quality assurance and accountability procedures for program utilization and funds management;

55 7. Establish procedures for obtaining bids on the development of new services;

1 8. Manage funds in the interagency budget allocated to the community from the state pool of funds, the trust fund,
2 and any other source;

3 9. Authorize and monitor the expenditure of funds by each family assessment and planning team;

4 10. ~~Have authority to submit~~ Submit grant proposals ~~which that~~ benefit its community to the state trust fund and to
5 enter into contracts for the provision or operation of services upon approval of the participating governing bodies;

6 11. Serve as its community's liaison to the Office of Comprehensive Services for At-Risk Youth and Families,
7 reporting on its programmatic and fiscal operations and on its recommendations for improving the service system, including
8 consideration of realignment of geographical boundaries for providing human services;

9 12. Collect and provide uniform data to the ~~State Executive Council~~ on, but not limited to, expenditures, number of
10 youth served in specific CSA activities, length of stay for residents in core licensed residential facilities, and proportion of
11 youth placed in treatment settings suggested by a uniform assessment instrument for CSA-funded services; and

12 13. ~~Have the power to administer~~ Administer funds pursuant to § 16.1-309.3.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2-1-753 2.2-5207.~~ Family assessment and planning team; membership; immunity from liability.

15 Each community policy and management team shall establish and appoint one or more family assessment and
16 planning teams as the needs of the community require. Each family assessment and planning team shall include
17 representatives of the following community agencies who have authority to access services within their respective agencies:
18 community services board established pursuant to § 37.1-195, juvenile court services unit, department of health, department
19 of social services, local school division and a parent representative. Parent representatives who are employed by a public or
20 private program ~~which that~~ receives funds pursuant to this chapter or agencies represented on a family assessment and
21 planning team may serve as a parent representative provided that they do not, as a part of their employment, interact directly
22 on a regular and daily basis with children or supervise employees who interact directly on a regular basis with children.
23 Notwithstanding this provision, foster parents may serve as parent representatives. The family assessment and planning
24 team may include a representative of a private organization or association of providers for children's or family services and of
25 other public agencies.

26 Persons who serve on a family assessment and planning team shall be immune from any civil liability for decisions
27 made about the appropriate services for a family or the proper placement or treatment of a child who comes before the team,
28 unless it is proven that such person acted with malicious intent. Any person serving on such team who does not represent a
29 public agency shall file a statement of economic interests as set out in ~~§ 2-1-639.15 2.2-3117~~ of the State and Local
30 Government Conflict of Interests Act (~~§ 2-1-639.4 2.2-3100~~ et seq.). Persons representing public agencies shall file such
31 statements if required to do so pursuant to the State and Local Government Conflict of Interests Act.

32 Persons serving on the team who are parent representatives or who represent private organizations or associations
33 of providers for children's or family services shall abstain from decision-making involving individual cases or agencies in
34 which they have either a personal interest, as defined in ~~§ 2-1-639.2 2.2-3101~~ of the State and Local Government Conflict of
35 Interests Act, or a fiduciary interest.

36 **DRAFTING NOTE:** Technical corrections only.

37 ~~§ 2-1-754 2.2-5208.~~ Family assessment and planning team; powers and duties.

38 The family assessment and planning team, in accordance with ~~§ 2-1-746 2.2-2648~~, shall assess the strengths and
39 needs of troubled youths and families who are approved for referral to the team and identify and determine the complement of
40 services required to meet these unique needs.

41 Every such team, in accordance with policies developed by the community policy and management team, shall:

42 1. Review referrals of youths and families to the team;

43 2. Provide for family participation in all aspects of assessment, planning and implementation of services;

44 3. Develop an individual family services plan for youths and families reviewed by the team ~~which that~~ provides for
45 appropriate and cost-effective services;

46 4. Where parental or legal guardian financial contribution is not specifically prohibited by federal or state law or
47 regulation, or has not been ordered by the court or by the Division of Child Support Enforcement, assess the ability of parents
48 or legal guardians, utilizing a standard sliding fee scale, based upon ability to pay, to contribute financially to the cost of
49 services to be provided and provide for appropriate financial contribution from parents or legal guardians in the individual
50 family services plan;

51 5. Refer the youth and family to community agencies and resources in accordance with the individual family services
52 plan;

53 6. Recommend to the community policy and management team expenditures from the local allocation of the state
54 pool of funds; and

1 7. Designate a person who is responsible for monitoring and reporting, as appropriate, on the progress being made
2 in fulfilling the individual family services plan developed for each youth and family, such reports to be made to the team or the
3 responsible local agencies.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 2-1-755~~ 2.2-5209. Referrals to family assessment and planning teams.

6 The community policy and management team shall establish policies governing the referral of troubled youths and
7 families to the family assessment and planning team. These policies shall include that all youth and families for which CSA-
8 funded treatment services are requested are to be assessed by the family assessment and planning team or a collaborative,
9 multidisciplinary team process approved by the ~~State Executive Council~~ and shall consider the criteria set out in ~~§ 2-1-758-A-4~~
10 ~~and 2 subdivisions A. 1. and A. 2. of § 2.2-5212~~. Except for cases involving only the payment of foster care maintenance
11 ~~which that~~ shall be at the discretion of the local community policy and management team, cases for which service plans are
12 developed outside of this family assessment and planning team process shall not be eligible for state pool funds.

13 Nothing in this section shall prohibit the use of state pool funds for emergency placements, provided the youth are
14 subsequently assessed by the family assessment and planning team or an approved collaborative, multidisciplinary team
15 process within fourteen days of admission and the emergency placement is approved at the time of placement. In cases
16 involving the denial of state pool funds resulting from parental refusal to consent to release of student records under federal
17 law, where such refusal precludes the development of placement through the family assessment and planning team process
18 or the approved, collaborative, multidisciplinary team process, an appeal for good cause may be made to the Council.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§ 2-4-756~~ 2.2-5210. Information sharing; confidentiality.

21 All public agencies ~~which that~~ have served a family or treated a child referred to a family assessment and planning
22 team shall cooperate with this team. The agency ~~which that~~ refers a youth and family to the team shall be responsible for
23 obtaining the consent required to share agency client information with the team. After obtaining the proper consent, all
24 agencies shall promptly deliver, upon request and without charge, such records of services, treatment or education of the
25 family or child as are necessary for a full and informed assessment by the team.

26 Proceedings held to consider the appropriate provision of services and funding for a particular child or family or both
27 who have been referred to the family assessment and planning team and whose case is being assessed by this team or
28 reviewed by the community management and planning team shall be confidential and not open to the public, unless the child
29 and family who are the subjects of the proceeding request, in writing, that it be open. All information about specific children
30 and families obtained by the team members in the discharge of their responsibilities to the team shall be confidential.

31 Demographic, service and cost information on youths and families receiving services and funding through this
32 chapter ~~which that~~ is of a nonidentifying nature may be gathered for reporting and evaluation purposes.

33 **DRAFTING NOTE:** Technical corrections only.

34 ~~§ 2-1-757~~ 2.2-5211. State pool of funds for community policy and management teams.

35 A. ~~Effective July 1, 1993, there~~ ~~There~~ is established a state pool of funds to be allocated to community policy and
36 management teams in accordance with the ~~appropriations~~ appropriation act and appropriate state regulations. These funds,
37 as made available by the General Assembly, shall be expended for public or private nonresidential or residential services for
38 troubled youths and families.

39 The purposes of this system of funding are to:

- 40 1. ~~To place~~ Place authority for making program and funding decisions at the community level;
- 41 2. ~~To consolidate~~ Consolidate categorical agency funding and institute community responsibility for the provision of
42 services;
- 43 3. ~~To provide~~ Provide greater flexibility in the use of funds to purchase services based on the strengths and needs of
44 youths and families; and
- 45 4. ~~To reduce~~ Reduce disparity in accessing services and to reduce inadvertent fiscal incentives for serving children
46 according to differing required local match rates for funding streams.

47 B. The state pool shall consist of funds ~~which that~~ serve the target populations identified in subdivisions 1 through 5
48 ~~below of this subsection~~ in the purchase of residential and nonresidential services for children. References to funding sources
49 and current placement authority for the targeted populations of children are for the purpose of accounting for the funds in the
50 pool. It is not intended that children be categorized by individual funding streams in order to access services. The target
51 population shall be the following:

- 52 1. Children placed for purposes of special education in approved private school educational programs, previously
53 funded by the Department of Education through private tuition assistance;

2. Children with disabilities placed by local social services agencies or the Department of Juvenile Justice in private residential facilities or across jurisdictional lines in private, special education day schools, if the individualized education program indicates such school is the appropriate placement while living in foster homes or child-caring facilities, previously funded by the Department of Education through the Interagency Assistance Fund for Noneducational Placements of Handicapped Children;

3. Children for whom foster care services, as defined by § 63.1-55.8, are being provided to prevent foster care placements, and children placed through parental agreements, entrusted to local social service agencies by their parents or guardians or committed to the agencies by any court of competent jurisdiction for purposes of placement in suitable family homes, child-caring institutions, residential facilities or independent living arrangements, as authorized by § 63.1-56;

4. Children placed by a juvenile and domestic relations district court, in accordance with the provisions of § 16.1-286, in a private or locally operated public facility or nonresidential program; and

5. Children committed to the Department of Juvenile Justice and placed by it in a private home or in a public or private facility in accordance with § 66-14.

C. The General Assembly and the governing body of each county and city shall annually appropriate such sums of money as shall be sufficient to (i) ~~to~~ provide special education services and foster care services for children identified in subdivisions B₁, B₂ and B₃, ~~of this section~~ and (ii) ~~to~~ meet relevant federal mandates for the provision of these services. The community policy and management team shall anticipate to the best of its ability the number of children for whom such services will be required and reserve funds from its state pool allocation to meet these needs. Nothing in this section prohibits local governments from requiring parental or legal financial contributions, where not specifically prohibited by federal or state law or regulation, utilizing a standard sliding fee scale based upon ability to pay, as provided in the appropriation act.

D. When a community services board established pursuant to § 37.1-195, local school division, local social service agency, court service unit, or the Department of Juvenile Justice has referred a child and family to a family assessment and planning team and that team has recommended the proper level of treatment and services needed by that child and family and has determined the child's eligibility for funding for services through the state pool of funds, then the community services board, the local school division, local social services agency, court service unit or Department of Juvenile Justice has met its fiscal responsibility for that child for the services funded through the pool. Each agency shall continue to be responsible for providing services identified in individual family service plans ~~which that~~ are within the agency's scope of responsibility and ~~which that~~ are funded separately from the state pool.

E. In any matter properly before a court for which state pool funds are to be accessed, the court shall, prior to final disposition, and pursuant to §§ ~~2-1-756-2-2-5209~~ and ~~2-1-758-2-2-5212~~, refer the matter to the community policy and management team for assessment by a local family assessment and planning team authorized by policies of the community policy and management team for assessment to determine the recommended level of treatment and services needed by the child and family. The family assessment and planning team making the assessment shall make a report of the case or forward a copy of the individual family services plan to the court within thirty days of the court's written referral to the community policy and management team. The court shall then consider the recommendations. However, the court may make such other disposition as is authorized or required by law, and services ordered pursuant to such disposition shall qualify for funding as appropriated under this section.

DRAFTING NOTE: Technical corrections. In subsection A, the effective date has been deleted as surplusage as this fund has been created.

~~§ 2-1-758-2-2-5212~~. Eligibility for state pool of funds.

A. In order to be eligible for funding for services through the state pool of funds, a youth, or family with a child, shall meet one or more of the criteria specified in subdivisions 1 through 4 ~~below~~ and shall be determined through the use of a uniform assessment instrument and process and by policies of the community policy and management team to have access to these funds.

1. The child or youth has emotional or behavior problems ~~which that~~ :

a. Have persisted over a significant period of time or, though only in evidence for a short period of time, are of such a critical nature that intervention is warranted;

b. Are significantly disabling and are present in several community settings, such as at home, in school or with peers; and

c. Require services or resources that are unavailable or inaccessible, or that are beyond the normal agency services or routine collaborative processes across agencies, or require coordinated interventions by at least two agencies.

2. The child or youth has emotional or behavior problems, or both, and currently is in, or is at imminent risk of entering, purchased residential care. In addition, the child or youth requires services or resources that are beyond normal agency services or routine collaborative processes across agencies, and requires coordinated services by at least two agencies.

3. The child or youth requires placement for purposes of special education in approved private school educational programs.

1 4. The child or youth has been placed in foster care through a parental agreement between a local social ser
2 agency or public agency designated by the community policy and management team and his parents or guardians, entru
3 to a local social services agency by his parents or guardian or has been committed to the agency by a court of competent
4 jurisdiction for the purposes of placement as authorized by § 63.1-56.

5 B. For purposes of determining eligibility for the state pool of funds, "child" or "youth" means (i) a person less than
6 eighteen years of age and (ii) any individual through twenty-one years of age who is otherwise eligible for mandated services
7 of the participating state agencies including special education and foster care services.

8 **DRAFTING NOTE:** Technical corrections only.

9 ~~§ 2.1-750~~ 2.2-5213. State trust fund.

10 A. ~~Effective January 1, 1993, there~~ There is established a state trust fund with funds appropriated by the General
11 Assembly. The purposes of this fund are to develop:

12 1. Early intervention services for young children and their families, which are defined to include: prevention efforts for
13 individuals who are at-risk for developing problems based on biological, psychological or social/environmental factors.

14 2. Community services for troubled youths who have emotional or behavior problems, or both, and who can
15 appropriately and effectively be served in the home or community, or both, and their families.

16 The fund shall consist of moneys from the state general fund, federal grants, and private foundations.

17 B. Proposals for requesting these funds shall be made by community policy and management teams to the Office of
18 Comprehensive Services for At-Risk Youth and Families. The Office of Comprehensive Services for At-Risk Youth and
19 Families shall make recommendations on the proposals it receives to the ~~state executive council~~ Council, which shall award
20 the grants to the community teams in accordance with the policies developed under the authority of ~~§ 2.1-748 of this chapter~~
21 2.2-5202.

22 **DRAFTING NOTE:** Technical corrections. In subsection A, the effective date has been deleted as surplusage as this fund
23 has been created.

24 ~~§ 2.1-750.4~~ 2.2-5214. Rates for purchase of services; service fee directory.

25 The rates paid for services purchased pursuant to this chapter shall be determined by competition of the market
26 place and by a process sufficiently flexible to ensure that family assessment and planning teams and providers can mee
27 needs of individual children and families referred to them. To ensure that family assessment and planning teams
28 informed about the availability of programs and the rates charged for such programs, the ~~state executive council~~ Council shall
29 oversee the development of and approve a service fee directory ~~which that~~ shall list the services offered and the rates
30 charged by any entity, public or private, which offers specialized services for at-risk youth or families. The ~~state executive~~
31 ~~council~~ Council shall designate the Office of Comprehensive Services for At-Risk Youth and Families to coordinate the
32 establishment, maintenance and other activities regarding the service fee directory.

33 **DRAFTING NOTE:** Technical corrections only.

34 CHAPTER 53.

35 EARLY INTERVENTION SERVICES SYSTEM.

36 ~~§ 2.1-760~~ 2.2-5300. Definitions.

37 As used in this chapter, unless the context requires ~~otherwise~~ a different meaning:

38 "Council" means the Virginia Interagency Coordinating Council created pursuant to § 2.2-2664.

39 "Early intervention services" means services provided through Part HC of the Individuals with Disabilities Education
40 Act (20 U.S.C. § ~~4474~~ 1431 et seq.), as amended, designed to meet the developmental needs of each child and the needs of
41 the family related to enhancing the child's development and provided to children from birth to age three who have (i) a twenty-
42 five percent developmental delay in one or more areas of development, (ii) atypical development, or (iii) a handicapping
43 condition. Early intervention services provided in the child's home and in accordance with this chapter shall not be construed
44 to be home health services as referenced in § 32.1-162.7.

45 "Participating agencies" means the Departments of Health, of Education, of Medical Assistance Services, of Mental
46 Health, Mental Retardation and Substance Abuse Services, and of Social Services; the Departments for the Deaf and Hard-
47 of-Hearing, for the Visually Handicapped, and for Rights of Virginians with Disabilities; and the Bureau of Insurance within the
48 State Corporation Commission.

49 **DRAFTING NOTE:** Technical corrections only.

50 ~~§ 2.1-764~~ 2.2-5301. Secretaries of Health and Human Resources and Education to work together.

51 The Secretaries of Health and Human Resources and Education shall work together in:

- 1 | 1. Promoting interagency consensus and facilitating ~~complementary~~ complementary agency positions on issues
- 2 | relating to early intervention services;
- 3 | 2. Examining and evaluating the effectiveness of state agency programs, services, and plans for early intervention
- 4 | services and identifying duplications, inefficiencies, and unmet needs;
- 5 | 3. Analyzing state agency budget requests and any other budget items affecting early intervention services;
- 6 | 4. Proposing ways of realigning funding to promote interagency initiatives and programs for early intervention
- 7 | services;
- 8 | 5. Formulating recommendations on planning, priorities, and expenditures for early intervention services and
- 9 | communicating the recommendations to the Governor and state agency heads;
- 10 | 6. Formulating joint policy positions and statements on legislative issues regarding early intervention services and
- 11 | communicating those positions and statements to the General Assembly; and
- 12 | 7. Resolving interagency disputes and assigning financial responsibility in accordance with Part HC of the
- 13 | Individuals with Disabilities Education Act (20 U.S.C. § ~~1474~~1431 et seq.).

14 | DRAFTING NOTE: Technical corrections only.

15 | ~~§-2-1-762~~ 2.2-5302. Early intervention agencies committee.

16 | An early intervention agencies committee shall be established to ensure the implementation of a comprehensive

17 | system for early intervention services. The committee shall be composed of the Commissioner of the Department of Health,

18 | the Director of the Department for the Deaf and Hard-of-Hearing, the Superintendent of Public Instruction, the Director of the

19 | Department of Medical Assistance Services, the Commissioner of the Department of Mental Health, Mental Retardation and

20 | Substance Abuse Services, the Commissioner of the Department of Social Services, the Commissioner of the Department for

21 | the Visually Handicapped, the Director of the Department for Rights of Virginians with Disabilities, and the Commissioner of

22 | the Bureau of Insurance within the State Corporation Commission. The committee shall meet at least twice each fiscal year

23 | and shall make annual recommendations to the Secretary of Health and Human Resources and the Secretary of Education

24 | on issues that require interagency planning, financing, and resolution. Each member of the committee shall appoint a

25 | representative from his agency to serve on the Virginia Interagency Coordinating Council.

26 | DRAFTING NOTE: Technical corrections only.

27 | ~~§-2-1-763~~ 2.2-5303. Duties of participating agencies.

28 | The duties of the participating agencies shall include:

- 29 | 1. Establishing a statewide system of early intervention services in accordance with state and federal statutes and
- 30 | regulations;
- 31 | 2. Identifying and maximizing coordination of all available public and private resources for early intervention
- 32 | services;
- 33 | 3. Developing and implementing formal state interagency agreements that define the financial responsibility and
- 34 | service obligations of each participating agency for early intervention services, establish procedures for resolving disputes,
- 35 | and address any additional matters necessary to ensure collaboration;
- 36 | 4. Consulting with the lead agency in the promulgation of regulations to implement the early intervention services
- 37 | system, including developing definitions of eligibility and services;
- 38 | 5. Carrying out decisions resulting from the dispute resolution process;
- 39 | 6. Providing assistance to localities in the implementation of a comprehensive early intervention services system in
- 40 | accordance with state and federal statutes and regulations; and
- 41 | 7. Requesting and reviewing data and reports on the implementation of early intervention services from counterpart
- 42 | local agencies.

43 | DRAFTING NOTE: Technical corrections only.

44 | ~~§-2-1-764~~ 2.2-5304. Lead agency's duties.

45 | To facilitate the implementation of an early intervention services system and to ensure compliance with federal

46 | requirements, the Governor shall appoint a lead agency. The duties of the lead agency shall include:

- 47 | 1. Promulgating regulations to implement an early intervention services system, in consultation with other
- 48 | participating agencies; the regulations shall be ~~promulgated~~ adopted in accordance with the provisions of the Administrative
- 49 | Process Act (~~§-9-6-14-1~~ 2.2-4000 et seq.);
- 50 | 2. Providing technical assistance to localities in the establishment and operation of local interagency coordinating
- 51 | councils; and
- 52 | 3. Establishing an interagency system of monitoring and supervising the early intervention services system.

1 DRAFTING NOTE: Technical corrections only.

2 ~~§ 2.1-765. Virginia Interagency Coordinating Council; composition and duties.~~

3 A. ~~The Virginia Interagency Coordinating Council is hereby continued to promote and coordinate early intervention~~
4 ~~services in the Commonwealth. The membership and operation of the Council shall be as required by Part H of the~~
5 ~~Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). The agency representatives shall be appointed by the~~
6 ~~member of their agency who serves on the early intervention agencies committee. Agency representatives shall regularly~~
7 ~~inform their agency head of the Council's activities and the status of the implementation of an early intervention services~~
8 ~~system in the Commonwealth.~~

9 B. ~~The Council's duties shall include advising and assisting the lead agency in the following:~~

- 10 1. ~~Performing its responsibilities for the early intervention services system;~~
- 11 2. ~~Identifying sources of fiscal and other support for early intervention services, recommending financial~~
12 ~~responsibility arrangements among agencies, and promoting interagency agreements;~~
- 13 3. ~~Developing strategies to encourage full participation, coordination, and cooperation of all appropriate agencies;~~
- 14 4. ~~Resolving interagency disputes;~~
- 15 5. ~~Gathering information about problems that impede timely and effective service delivery and taking steps to ensure~~
16 ~~that any identified policy problems are resolved;~~
- 17 6. ~~Preparing federal grant applications; and~~
- 18 7. ~~Preparing and submitting an annual report to the Governor and the U.S. Secretary of Education on the status of~~
19 ~~early intervention services within the Commonwealth.~~

20 DRAFTING NOTE: Technical corrections. This section now appears in Part D of Subtitle 1 under the heading of "Councils."

21 ~~§ 2.1-766~~ 2.2-5305. Local interagency coordinating councils.

22 A. The lead agency, in consultation with the Virginia Interagency Coordinating Council, shall establish local
23 interagency councils on a statewide basis to enable early intervention service providers to establish working relationships that
24 will increase the efficiency and effectiveness of early intervention services. The membership of local interagency councils
25 shall include designees from the following agencies who are authorized to make funding and policy decisions: community
26 services board, department of health, department of social services, and local school division. These designees shall
27 designate additional council members as follows: at least one parent representative who is not an employee of any public or
28 private program ~~which that~~ serves infants and toddlers with disabilities; representatives from community providers of early
29 intervention services; and representatives from other service providers as deemed appropriate. Every county and city may
30 appoint a representative to the respective local interagency coordinating council.

31 B. The duties of local interagency coordinating councils shall include:

- 32 1. Identifying existing early intervention services and resources;
- 33 2. Identifying gaps in the service delivery system and developing strategies to address these gaps;
- 34 3. Identifying alternative funding sources;
- 35 4. Facilitating the development of interagency agreements and supporting the development of service coalitions;
- 36 5. Assisting in the implementation of policies and procedures that will promote interagency collaboration; and
- 37 6. Developing local procedures and determining mechanisms for implementing policies and procedures in
38 accordance with state and federal statutes and regulations.

39 C. Localities shall not be mandated to fund any costs under this chapter either directly or through participating local
40 public agencies.

41 DRAFTING NOTE: Technical corrections only.

42 ~~§ 2.1-767~~ 2.2-5306. Duties of local public agencies.

43 Local public agencies represented on local interagency coordinating councils are responsible for:

- 44 1. Providing services as appropriate and agreed upon by members of the local interagency coordinating council;
- 45 2. Maintaining data and providing information as requested to their respective state agencies;
- 46 3. Developing and implementing interagency agreements;
- 47 4. Complying with applicable state and federal regulations and local policies and procedures; and
- 48 5. Following procedural safeguards and dispute resolution procedures as ~~promulgated~~ adopted by the
49 Commonwealth.

50 DRAFTING NOTE: Technical corrections only.

§ 2.1-768 2.2-5307. Existing funding levels.

Any federal funds made available through Part HC of the Individuals with Disabilities Education Act (20 U.S.C. § 4474-1431 et seq.) and any state funds appropriated specifically for Part H services shall supplement overall funding for services currently provided under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 4474-1431 et seq.).

DRAFTING NOTE: Technical corrections only.

§ 2.1-768.4 2.2-5308. Licensure as home care organization not required.

Notwithstanding the provisions of § 32.1-162.9, no person who provides early intervention services in accordance with this chapter shall be required to be licensed as a home care organization in order to provide these services in a child's home.

DRAFTING NOTE: Technical corrections only.

CHAPTER 54.

COMMUNITY ACTION ACT.

§ 2.1-587 2.2-5400. ~~Title~~ Short title; definitions.

A. This chapter shall be known as the Community Action Act.

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

"Community action agency" means a local subdivision of the Commonwealth, a combination of political subdivisions, a separate public agency or a private nonprofit agency that has the authority under its applicable charter or laws to receive funds to support community action activities and other appropriate measures designed to identify and deal with the causes of poverty in the Commonwealth, and that is designated as a community action agency by federal law, federal regulations or the Governor.

"Community action program budget" means state funds, federal block grants and federal categorical grants that are received by the Commonwealth for community action activities.

"Community action statewide organization" means community action programs, organized on a statewide basis, to enhance the capability of community action agencies.

"Designated agency" means the agency designated by the Secretary of Health and Human Resources pursuant to § 2.2-5401 (2.1-589).

"Local share" means cash or in-kind goods and services donated to community action agencies to carry out their responsibilities.

"Low-income person" means a person who is a member of a household with a gross annual income equal to or less than 125 percent of the poverty standard accepted by the federal agency designated to establish poverty guidelines.

"Service area" means the geographical area within the jurisdiction of a community action agency or a community action statewide organization.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 2.1-587 and subsection B is § 2.1-588. A definition of "designated agency" has been added to reduce the need for repetitive language. As of the date of this title revision, the "designated agency" is the Department of Social Services.

§ 2.1-588. Definitions.

As used in this chapter:

"Community action agency" means a local subdivision of the Commonwealth, a combination of political subdivisions, a separate public agency or a private nonprofit agency which has the authority under its applicable charter or laws to receive funds to support community action activities and other appropriate measures designed to identify and deal with the causes of poverty in the Commonwealth, and which is designated as a community action agency by federal law, federal regulations or the Governor.

"Community action program budget" means state funds, federal block grants and federal categorical grants that are received by the Commonwealth for community action activities.

"Community action statewide organization" means community action programs, organized on a statewide basis, to enhance the capability of community action agencies.

"Local share" means cash or in-kind goods and services donated to community action agencies to carry out their responsibilities.

"Low-income person" means a person who is a member of a household with a gross annual income equal to or less than 125 percent of the poverty standard accepted by the federal agency designated to establish poverty guidelines.

1 | "Service area" means the geographical area within the jurisdiction of a community action agency or a commi
2 | action statewide organization.

3 | **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 2.2-5400 supra.

4 | § ~~2.1-589~~ 2.2-5401. Designation by Secretary of Health and Human Resources of agency to administer act.

5 | The Secretary of Health and Human Resources shall designate an agency to administer the Community Action Act
6 | and to work with community action agencies and community action statewide organizations to develop social and economic
7 | opportunities for low-income persons.

8 | **DRAFTING NOTE:** Technical corrections only.

9 | § ~~2.1-590~~ 2.2-5402. Powers and duties of designated agency.

10 | The designated agency designated pursuant to § 2.1-589 shall have the following powers and duties to:

- 11 | 1. ~~To coordinate~~ Coordinate state activities designed to reduce poverty.
- 12 | 2. ~~To cooperate~~ Cooperate with agencies of the Commonwealth and the federal government in reducing poverty and
13 | implementing community, social and economic programs.
- 14 | 3. ~~To receive~~ Receive and expend funds for any purpose authorized by this chapter.
- 15 | 4. ~~To enter~~ Enter into contracts with and to award grants to public and private nonprofit agencies and organizations.
- 16 | 5. ~~To develop~~ Develop a state plan based on needs identified by community action agencies and community action
17 | statewide organizations.
- 18 | 6. ~~To fund~~ Fund community action agencies and community action statewide organizations and to ~~promulgate rules~~
19 | ~~and adopt~~ regulations.
- 20 | 7. ~~To provide~~ Provide assistance to local governments or private organizations for the purpose of establishing and
21 | operating a community action agency.
- 22 | 8. ~~To provide~~ Provide technical assistance to community action agencies to improve program planning, program
23 | development, administration and the mobilization of public and private resources.
- 24 | 9. ~~To require~~ Require community action agencies and community action statewide organizations to generate local
25 | contributions of cash or in-kind services as the agency may establish by regulation.
- 26 | 10. ~~To convene~~ Convene public meetings ~~which that~~ provide citizens the opportunity to comment on public polic.
27 | and programs to reduce poverty.
- 28 | 11. ~~To advise~~ Advise the Governor and the General Assembly of the nature and extent of poverty in the
29 | Commonwealth and to make recommendations concerning changes in state and federal policies and programs.

30 | **DRAFTING NOTE:** Technical corrections only.

31 | § ~~2.1-594~~ 2.2-5403. Community action ~~board~~ boards.

32 | A. Each community action agency shall administer its community action program through a community action board
33 | consisting of no less than fifteen members who shall be selected as follows:

- 34 | 1. One-third of the members of the board shall be elected public officials or their designees, who shall be selected by
35 | the local governing body ~~or bodies~~ of the service area, except that if the number of elected officials reasonably available and
36 | willing to serve is less than one-third of the membership of the board, membership on the board of appointed public officials
37 | may be counted in meeting ~~such the~~ one-third requirement.
- 38 | 2. At least one-third of the members shall be persons chosen democratically to represent the poor of the area
39 | served.
- 40 | 3. The other members shall be members of business, industry, labor, religious, social service, education or other
41 | major community groups.

42 | B. Each member of the board selected to represent a specific geographic area within a community ~~must~~ shall reside
43 | in the area represented.

44 | C. No person selected to serve on the board pursuant to subdivisions A, 2, and A, 3, ~~of this section~~ shall serve for
45 | more than five consecutive years or more than a total of ten years.

46 | D. Except as otherwise provided in subsection E ~~of this section~~, the board shall be responsible for the following:

- 47 | 1. Appointing and dismissing an executive director of the community action agency.
- 48 | 2. Approving grants and contracts, annual program budget requests and operational policies of the community action
49 | agency.
- 50 | 3. Having an annual audit performed by an independent auditor.

1 4. Convening public meetings to provide low-income and other persons the opportunity to comment upon public
2 policies and programs to reduce poverty.

3 5. Annually evaluating the policies and programs of the community action agency. The board shall submit the
4 evaluation and recommendations to improve the administration of the community action agency to the designated agency
5 ~~designated pursuant to § 2.1-589~~ and to the local governing body or bodies within the service area.

6 6. Carrying out such other duties as may be delegated by the local governing body or bodies within the service area
7 or by the designated agency ~~designated pursuant to § 2.1-589~~.

8 7. Delegating responsibilities pursuant to the provisions of ~~§ 2.1-502~~ 2.2-5404.

9 E. Where a local subdivision of the Commonwealth acts as or has designated a community action agency, the local
10 governing body shall determine the responsibilities and authority of the community action board.

11 **DRAFTING NOTE:** Technical corrections only.

12 ~~§ 2.1-592~~ 2.2-5404. Delegation of responsibilities by community action agency.

13 If a community action agency places responsibility for major policy determination with respect to the character,
14 funding, extent and administration of and budgeting for programs to be carried on in a particular geographic area within the
15 community in a subsidiary board, council or similar agency, the board, council or agency shall be broadly representative of
16 the area.

17 **DRAFTING NOTE:** Technical corrections only.

18 ~~§ 2.1-593~~ 2.2-5405. Local participation.

19 Each community action agency shall consult neighborhood-based organizations composed of residents of the area it
20 serves or members of the groups to be served to assist the agency in planning, conducting and evaluating components of the
21 community action agency.

22 **DRAFTING NOTE:** Technical corrections only.

23 ~~§ 2.1-594. Community action statewide organizations; duties generally.~~

24 ~~Community action statewide organizations shall receive and administer state, federal and private funds, render~~
25 ~~technical assistance and carry out activities that will enable community action agencies to solve local problems.~~

26 ~~Community action statewide organizations shall work with community action agencies in areas served by those~~
27 ~~agencies and with community-based organizations, local governments, industry and other organizations in areas unserved by~~
28 ~~a community action agency to assist in carrying out the purposes of this chapter.~~

29 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections D and E of proposed § 2.2-5406.

30 ~~§ 2.1-595~~ 2.2-5406. Community action statewide organizations; structure; responsibilities.

31 A. A community action statewide organization shall be a nonprofit corporation whose charter, articles of
32 incorporation and bylaws permit the corporation to operate in all jurisdictions ~~in~~ of the Commonwealth.

33 B. A community action statewide organization shall be governed by a board. The board shall conform to
34 requirements for the community action agency board.

35 C. Community action statewide organizations shall carry out all the planning, reporting, evaluation, fiscal and
36 programmatic responsibilities required by the designated agency and other appropriate agencies of state government.

37 D. Community action statewide organizations shall receive and administer state, federal and private funds, render
38 technical assistance and carry out activities that will enable community action agencies to solve local problems.

39 E. Community action statewide organizations shall work with community action agencies in areas served by those
40 agencies and with community-based organizations, local governments, industry and other organizations in areas unserved by
41 a community action agency to assist in carrying out the purposes of this chapter.

42 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
43 A and B are § 2.1-595, subsection C is § 2.1-596, and subsections D and E are § 2.1-594.

44 ~~§ 2.1-596. Same; responsibilities required by agency designated under § 2.1-589.~~

45 ~~Community action statewide organizations shall carry out all the planning, reporting, evaluation, fiscal and~~
46 ~~programmatic responsibilities required by the agency designated pursuant to § 2.1-589 and other appropriate agencies of~~
47 ~~state government.~~

48 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 2.2-5406 supra.

49 ~~§ 2.1-597~~ 2.2-5407. Designation of community action agencies; rescission of designation.

1 A. Recommendations for designation of a community action agency may be forwarded to the designated agency
2 ~~designated pursuant to § 2-1-589~~ by resolution of one or more units of local government. The local governing body or bodies
3 shall:

4 1. Determine the need and target population within the service area.

5 2. Conduct a public hearing in each jurisdiction in the service area to provide citizens with the opportunity to
6 comment on the need for the proposed community action agency.

7 B. Upon receipt of the recommendation for designation of a community action agency, the designated agency
8 ~~designated pursuant to § 2-1-589~~, in consultation with the local governing body or bodies in the service area and with
9 representatives of the low-income population of the area, shall develop a plan for organizing and funding the community
10 action agency.

11 C. The designated agency ~~designated pursuant to § 2-1-589~~ shall present to the Secretary of Health and Human
12 Resources the recommendation for community action status and a recommendation for funding the community action agency.
13 Upon completion of a satisfactory review of the request and upon a determination of the availability of funds, the Secretary
14 shall forward the recommendation to the Governor or his representative for designation.

15 D. Each community action agency ~~which that~~ has been designated by a unit of local government and funded
16 pursuant to the Economic Opportunity Act of 1964 (Public Law 88-452) and ~~which that~~ is in operation on July 1, 1982, shall be
17 deemed a community action agency for the purposes of this chapter.

18 E. No new community action agency shall be designated in any area of the Commonwealth ~~which that~~ is served by
19 an existing community action agency.

20 F. The Secretary of Human Resources may recommend that the Governor or his representative rescind the
21 designation of a community action agency for cause. The Secretary shall:

22 1. Receive from the chief elected official of the local governing body ~~or bodies~~ in the service area a request for ~~such~~
23 rescission indicating the causes therefor.

24 2. Publish in a newspaper of general circulation in each jurisdiction of the service area a statement of the intent to
25 rescind with a request for response.

26 3. Conduct at least one public hearing in the area served by the community action agency.

27 **DRAFTING NOTE:** Technical corrections only.

28 ~~§ 2-1-589~~ 2.2-5408. Administration of community action budget.

29 ~~As soon as practical after July 1, 1982, the~~ The designated agency designated pursuant to § 2-1-589 shall
30 ~~promulgate rules and adopt~~ regulations detailing the formula for the distribution of community action program budget funds.
31 ~~The rules and regulations shall take into consideration the distribution of low-income persons residing in the service areas of~~
32 ~~the community action agencies, the relative cost of living of the areas, as well as other factors considered appropriate.~~

33 Each community action agency and community action statewide organization annually shall develop and submit a
34 program budget request for funds appropriated from the community action program budget. The designated agency
35 ~~designated pursuant to § 2-1-589~~ shall publish annually guidelines detailing the nature and extent of information required in
36 the program budget request for the succeeding fiscal year.

37 In order to carry out its overall responsibility for planning, coordinating, evaluating and administering a community
38 action program, a community action agency ~~shall have authority~~ may under its charter or applicable laws ~~to receive and~~
39 ~~administer funds pursuant to this chapter. The community action agency shall be authorized to~~ may receive and administer
40 funds and contributions from private or public sources ~~which that~~ may be used in support of a community action agency or
41 program and funds under any federal or state assistance program pursuant to which a public or private nonprofit agency
42 organized in accordance with this chapter could act as grantee, contractor or sponsor of projects appropriate for inclusion in a
43 community action program. A community action agency or community action statewide organization ~~shall be empowered to~~
44 may transfer funds so received between components and to delegate funds to other agencies subject to the powers of its
45 governing board and its overall program responsibilities.

46 In accordance with the requirements of the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35),
47 the designated agency ~~designated pursuant to § 2-1-589~~ in cooperation with community action agencies and community
48 action statewide organizations, shall develop a state plan for submission annually by the Governor to the Secretary of Health
49 and Human Services.

50 Community action agencies and community action statewide organizations shall provide the designated agency
51 ~~designated pursuant to § 2-1-589~~ with quarterly financial and program reports.

52 Funds received in the Community Services Block Grant pursuant to the federal Omnibus Budget Reconciliation Act
53 of 1981 (Public Law 97-35) shall be expended in support of the purposes of this chapter as follows:

54 1. Ninety percent of the funds received in the Community Services Block Grant shall be used for the development
55 and implementation of programs and projects designed by community action agencies to serve poor or low-income areas of

the Commonwealth in accordance with a formula approved by the Governor for the first year of the Community Services Block Grant and thereafter biennially by the General Assembly.

2. No more than five percent of the funds received in the Community Services Block Grant shall be used for administration of the duties required by this ~~act~~ chapter of the designated agency designated pursuant to § 2-1-589.

3. At least five percent of the funds received in the Community Services Block Grant shall be used to support community action activities conducted by community action statewide organizations.

DRAFTING NOTE: Technical corrections only.

CHAPTER 55.

VIRGINIA BIOTECHNOLOGY RESEARCH ACT.

~~§-2-1-769~~ 2.2-5500. Purpose.

The purposes of this chapter are to establish a state regulatory scheme to ensure state participation in the federal Coordinated Framework for the Regulation of Biotechnology to protect human health and the environment and to stimulate the growth of the biotechnology industry within the Commonwealth. To do this, the Secretary of Commerce and Trade shall cooperate with federal authorities pursuant to the federal Coordinated Framework to assess the potential risks and effects of proposed regulated introductions of genetically engineered organisms into the environment without undue governmental interference with the progress and commercial development of biotechnology within the Commonwealth. The General Assembly does not intend to create a regulatory scheme that duplicates federal regulatory efforts regarding biotechnology, or one that overly burdens biotechnology efforts within the Commonwealth. This chapter is intended to institute a process in which the Commonwealth can monitor the federal regulatory process and protect its interests in agriculture, public health, and the natural environment, as needed, by participation in the federal regulatory process.

DRAFTING NOTE: Technical corrections. This section is not set out in the Code but has been set out for the purposes of this title revision. The Code Commission directed that this section continue to be not set out in the Code.

~~§-2-1-770~~ 2.2-5501. Definitions.

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

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

"Confidential business information" means information entitled to confidential treatment under subdivision A₁ or A₂ of ~~§-2-1-775~~ 2.2-5506.

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

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

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

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

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

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

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

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

1 **DRAFTING NOTE:** Technical corrections only. As of the date of this title revision, the designated Department is the
2 Department of Agriculture.

3 § 2-1-774 2.2-5502. Exemptions from chapter to be determined by Department.

4 A. The Department may waive part or all of the requirements under this chapter for a specified regulated introduction
5 if the Department determines that the satisfaction of that requirement is not necessary to protect the public health or the
6 environment.

7 B. The Department may exempt a class of regulated introductions from part or all of any requirement under this
8 chapter if the Department determines that the satisfaction of those requirements or part thereof is not necessary to protect the
9 public health or the environment.

10 C. Planned regulated introductions approved by a federal regulator pursuant to the federal Coordinated Framework
11 prior to enactment of this chapter shall be exempt from the provisions of this chapter.

12 **DRAFTING NOTE:** Technical corrections only.

13 § 2-1-772 2.2-5503. Notification Requirements for regulated introduction.

14 Except as provided under § 2-1-774 2.2-5502, no person may commence a regulated introduction unless the person:

15 1. Provides to the Department all of the following information within seven days after the person submits or should
16 have submitted the information specified in subdivisions 1. a. and 1. b. ~~of this section~~ to a federal regulator, whichever is
17 sooner:

18 a. A copy of all information ~~which that~~ the person is required to submit to the federal regulator and ~~which that~~ is not
19 confidential information; and

20 b. A summary of any confidential information ~~which that~~ the person submits or is required to submit to a federal
21 regulator. The summary shall provide sufficient information to enable the Department to exercise its notice and comment
22 functions under ~~§§ 2-1-773 2.2-5504 and 2-1-774 2.2-5505~~, to provide public notice pursuant to ~~§ 2-1-773 2.2-5504~~, and to
23 prepare comments pursuant to ~~§ 2-1-774 2.2-5505~~, and shall have minimal extraneous and irrelevant information. ~~Likewise,~~
24 ~~the~~ The summary shall also provide sufficient information to enable the locality in which the introduction is proposed to be
25 made to exercise its comment function under ~~§ 2-1-774 2.2-5505~~.

26 2. Provides such additional information, if any, as is necessary to enable the Department to fulfill any function
27 undertakes, on a case-by-case basis, under ~~§ 2-1-774 2.2-5505~~.

28 **DRAFTING NOTE:** Technical corrections only.

29 § 2-1-773 2.2-5504. Public notice of proposed regulated introduction.

30 Within fifteen days after receiving the information required under ~~§ 2-1-772 2.2-5503~~, the Department shall publish
31 notice and a brief description of the proposed regulated introduction. Notice shall also be provided to any affected locality and
32 to any person who has filed a written request to be notified of ~~such~~ regulated introductions. Notice shall be given by
33 publication one time in a newspaper having general circulation in each locality where the regulated introduction is proposed to
34 be made. In addition, subject to the provisions of this ~~article~~ ~~chapter~~ regarding confidential business information, any
35 documents submitted to the Department as required under ~~§ 2-1-772 2.2-5503~~ shall be available for public inspection or
36 copying at or near the site of the proposed regulated introduction and at the offices of the Department.

37 **DRAFTING NOTE:** Technical corrections only.

38 § 2-1-774 2.2-5505. Comment on proposed regulated introduction.

39 A. The Department and any affected locality may prepare formal comments on the regulated introduction for
40 submission to the federal regulator for that regulated introduction. ~~Such~~ ~~The~~ comments shall be submitted within the time
41 established by the federal regulator for that regulated introduction, as determined by the applicable federal requirements or
42 the Coordinated Framework. The comments shall address issues raised by application of the criteria for the granting of
43 approval of a permit or a license under the applicable requirement in the Coordinated Framework and for the protection of the
44 public health and the environment.

45 B. To assist in the preparation of comments, the Department may do any or all of the following:

46 1. Hold an informational meeting on the proposed regulated introduction;

47 2. Provide an opportunity for the public to comment on the proposed regulated introduction;

48 3. Request any additional information necessary on the proposed regulated introduction from the person providing
49 information under ~~§ 2-1-772 2.2-5503~~;

50 4. Conduct a technical review of the proposed regulated introduction; and

51 5. Seek the assistance of the faculty and academic staff of any Virginia public ~~college or university~~ institution of
52 higher education, the Department of Health, the Department of Agriculture and Consumer Services, the Department

1 Environmental Quality, or any other appropriate state agency or organization, including but not limited to an institutional
2 biosafety committee, in reviewing the proposed regulated introduction.

3 C. To assist in the preparation of comments, affected localities may do either or both of the following:

4 1. Hold an informational meeting on the proposed regulated introduction. When possible, that meeting shall be held
5 in conjunction with an informational meeting held by the Department; and

6 2. Provide an opportunity for the public to comment on the proposed regulated introduction.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2-1-775 2.2-5506.~~ Confidential business information; Department to establish procedures.

9 A. Except as provided in subsections B and C, the Department and any affected locality shall keep confidential any
10 information received under this chapter if the person submitting the information notifies them that:

11 1. The federal regulator to whom the information has been submitted has determined that the information is entitled
12 to confidential treatment and is not subject to public disclosure under the federal Freedom of Information Act, 5 U.S.C. § 552,
13 as ~~now or hereafter~~ amended, or under the Coordinated Framework; or

14 2. The person submitting the information to the Department and any locality has submitted a claim to the federal
15 regulator that the information is entitled to confidential treatment under the federal Freedom of Information Act or under the
16 Coordinated Framework, and the federal regulator has not made a determination on that claim.

17 B. Subsection A shall not prevent the Department from using the information for the purposes of subdivision B₄ or
18 B₅ of ~~§ 2-1-774 2.2-5505~~, subject to the requirements of subsection D ~~of this section~~.

19 C. The Department shall allow public access to any information ~~which that~~ has been granted confidentiality under
20 subsection A if either of the following occurs:

21 1. The person providing the information expressly agrees in writing to the public access of the information; or

22 2. After information has been granted confidentiality under subdivision A₂, the federal regulator makes a
23 determination that the information is not entitled to confidential treatment under the federal Freedom of Information Act or
24 under the Coordinated Framework.

25 D. ~~4.~~The Department shall establish procedures to protect information required to be kept confidential under
26 subsection A ~~of this section~~. Under the procedures, the Department ~~may shall~~ not submit any information under subdivision B₄
27 or B₅ of ~~§ 2-1-774 2.2-5505~~ to any person who is not an employee of the Department unless that person has signed an
28 agreement ~~which that~~ satisfies the requirements of ~~subdivision 2 of this subsection E~~.

29 ~~2E.~~ Any agreement under ~~subdivision 1 of this subsection D~~ shall (i) provide that information ~~which that~~ is the subject
30 of the agreement ~~is shall be~~ subject to confidential treatment; ~~shall (ii)~~ prohibit the release or sharing of the information with
31 any other person except at the direction of the Department and in compliance with this chapter; ~~shall (iii)~~ acknowledge the
32 penalties in § 59.1-338 of the Virginia Uniform Trade Secrets Act (§ 59.1-336, et seq.); ~~as now and hereafter amended~~, and
33 any other applicable law of the Commonwealth identified by the Department for the unauthorized disclosure of the
34 information; and ~~shall (iv)~~ contain a statement that the person receiving the information, any member of his or her immediate
35 family or any organization with which he or she is associated has no substantial financial interest in the regulated introduction
36 ~~which that~~ is the subject of the information.

37 ~~F.~~ Any person submitting the information under ~~§ 2-1-772 2.2-5503~~ may waive any of the requirements under this
38 section.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§ 2-1-776 2.2-5507.~~ Enforcement.

41 The Department shall enforce the provisions of §§ 2-1-772 2.2-5503 and 2-1-775 2.2-5506. Actions to enforce this
42 chapter by injunctive and any other relief appropriate for enforcement may be filed in the Circuit Court of the City of Richmond
43 or in any county or municipality where a violation occurred in whole or in part. In an enforcement action under this chapter, if it
44 is determined that a person commenced a regulated introduction and did not comply with ~~§ 2-1-772 2.2-5503~~, the court may
45 enter an injunction directing the person to cease the regulated introduction and may order any additional action necessary to
46 protect human health and the environment.

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§ 2-1-777 2.2-5508.~~ Penalties.

49 A civil penalty of not more than \$500 may be assessed by the Department against any person who violates any
50 provision of this chapter. In determining the amount of the penalty, the Department shall consider the degree and extent of
51 harm caused by the violation. No civil penalty may be assessed under this section unless the person has been given the
52 opportunity for a hearing pursuant to the ~~Virginia~~ Administrative Process Act, (~~§ 9-6.14:1 2.2-4000~~ et seq.). Any continuing

1 failure to notify under ~~§ 2-1-772~~ 2.2-5503 shall constitute the same offense for purposes of imposing the ~~above~~ penalty
2 authorized by this section.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 2-1-778~~ 2.2-5509. Local Limitation on local regulation.

5 No locality shall enact any regulation or ordinance regulating or prohibiting (i) the planned introduction of genetically
6 engineered organisms into the environment. ~~No locality shall enact any regulation or ordinance regulating or prohibiting or (ii)~~
7 biotechnology research activities, ~~provided;~~ however, that the siting of biotechnology research activities shall be subject to
8 the zoning and land-use laws and regulations of the ~~political subdivisions~~ localities in which such activities are conducted
9 and, the Uniform Statewide Building Code (§ 36-97 et seq.), the Statewide Fire Prevention Code (§ 27-94 et seq.), local public
10 utility and public works ordinances and regulations of general application, and local tax ordinances of general application.

11 **DRAFTING NOTE:** Technical corrections only.

12 SUBTITLE II.

13 PART C.

14 INTERSTATE COMPACTS AND AGREEMENTS.

15 CHAPTER 56.

16 SOUTHERN STATES ENERGY COMPACT.

17 ~~§ 2-1-336~~ 2.2-5600. Form of compact.

18 The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Southern States
19 Energy Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

20 SOUTHERN STATES ENERGY COMPACT

21 Article I.

22 Policy and Purpose.

23 The party states recognize that the proper employment and conservation of energy and employment of energy-
24 related facilities, materials, and products, within the context of a responsible regard for the environment can assist
25 substantially in the industrialization of the South and the development of a balanced economy for the region. They also
26 recognize that optimum benefit from the acquisition of energy resources and facilities require systematic encouragement,
27 guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such
28 cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a
29 cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the
30 region's people.

31 Article II.

32 The Board.

33 ~~(a) A.~~ (a) A. There is ~~hereby~~ created an agency of the party states to be known as the "Southern States Energy Board"
34 (hereinafter called the Board). The Board shall be composed of three members from each party state, one of whom shall be
35 appointed or designated in each state to represent the Governor, the State Senate and the State House of Representatives,
36 respectively. Each member shall be designated or appointed in accordance with the law of the state which he represents and
37 serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his
38 duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time)
39 by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be
40 represented without vote if provision is made by federal law for such representation.

41 ~~(b) B.~~ (b) B. Each party state shall be entitled to one vote on the Board, to be determined by majority vote of each member
42 or member's representative from the party state present and voting on any question. No action of the Board shall be binding
43 unless taken at a meeting at which a majority of all party states are represented and unless a majority of the total number of
44 votes on the Board are cast in favor thereof.

45 ~~(c) C.~~ (c) C. The Board shall have a seal.

46 ~~(d) D.~~ (d) D. The Board shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The
47 Board shall appoint an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who,
48 together with the Treasurer, shall be bonded in such amounts as the Board may require.

49 ~~(e) E.~~ (e) E. The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel
50 as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit
51 system laws of any of the party states.

1 ~~(f)~~F. The Board may establish and maintain, independently or in conjunction with any one or more of the party
2 states, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security
3 coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary
4 pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may
5 establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

6 ~~(g)~~G. The Board may borrow, accept, or contract for the services of personnel from any state or the United States or
7 any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

8 ~~(h)~~H. The Board may accept for any of its purposes and functions under this compact any and all donations, and
9 grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States
10 or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may
11 receive, utilize and dispose of the same.

12 ~~(i)~~I. The Board may establish and maintain such facilities as may be necessary for the transacting of its business.
13 The Board may acquire, hold, and convey real and personal property and any interest therein.

14 ~~(j)~~J. The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power
15 to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules and regulations in
16 convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate
17 agency or officer in each of the party states.

18 ~~(k)~~K. The Board annually shall make to the governor of each party state, a report covering the activities of the Board
19 for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall
20 be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

21 Article III.

22 Finances.

23 ~~(a)~~A. The Board shall submit to the executive head or designated officer or officers of each party state a budget of
24 its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature
25 thereof.

26 ~~(b)~~B. Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount
27 or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated
28 expenditures shall be apportioned among the party states in equal shares; one quarter of each such budget shall be
29 apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group
30 of party states based on the last decennial federal census; and one quarter of each such budget shall be apportioned among
31 the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on
32 the latest computations published by the federal census-taking agency. Subject to appropriation by their respective
33 legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means
34 of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers
35 and duties imposed upon and entrusted to the Board.

36 ~~(c)~~C. The Board may meet any of its obligations in whole or in part with funds available to it under Article II (h) of this
37 compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be
38 met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II ~~(h)~~ hereof H,
39 the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

40 ~~(d)~~D. The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of
41 the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and
42 disbursements of funds handled by the Board shall be audited yearly by a qualified public accountant and the report of the
43 audit shall be included in and become part of the annual report of the Board.

44 ~~(e)~~E. The accounts of the Board shall be open at any reasonable time for inspection.

45 IV. Advisory Committees

46 The Board may establish such advisory and technical committees as it may deem necessary, membership on which
47 to include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce,
48 agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal
49 government, and may cooperate with and use the services of any such committees and the organizations which they
50 represent in furthering any of its activities under this compact.

51 V. Powers

52 The Board shall have power to:

53 ~~(a)~~A. Ascertain and analyze on a continuing basis the position of the South with respect to energy, energy-related
industries and environmental concerns.

54 ~~(b)~~B. Encourage the development, conservation, and responsible use of energy and energy-related facilities,
55 installation, and products as part of a balanced economy and healthy environment.

1 | ~~(e)~~-C. Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related ma
2 | and products.

3 | ~~(d)~~-D. Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect
4 | of

5 | ~~(1)~~-1. Energy, environment, and application of energy, environmental, and related concerns to industry, medicine, or
6 | education or the promotion or regulation thereof.

7 | ~~(2)~~-2. The formulation or administration of measures designed to promote safety in any matter related to the
8 | development, use or disposal of energy and energy-related materials, products, installations, or wastes.

9 | ~~(e)~~-E. Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy
10 | product, material, or equipment use and disposal and of proper techniques or processes for the application of energy
11 | resources to the civilian economy or general welfare.

12 | ~~(f)~~-F. Undertake such nonregulatory functions with respect to sources of radiation as may promote the economic
13 | development and general welfare of the region.

14 | ~~(g)~~-G. Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative
15 | practices in or related to energy and environmental fields.

16 | ~~(h)~~-H. Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations,
17 | administrative procedures and practices or ordinances of the party states in any of the fields of its interest and competence as
18 | in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due
19 | consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstance which may
20 | justify variations to meet local conditions.

21 | ~~(i)~~-I. Prepare, publish and distribute, (with or without charge) such reports, bulletins, newsletters or other material as
22 | it deems appropriate.

23 | ~~(j)~~-J. Cooperate with the United States Department of Energy or any agency successor thereto, any other officer or
24 | agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or
25 | agencies in any of the fields of its interests.

26 | ~~(k)~~-K. Act as licensee of the United States government or any party state with respect to the conduct of any research
27 | activity requiring such license and operate such research facility or undertake any program pursuant thereto.

28 | ~~(l)~~-L. Ascertain from time to time such methods, practices, circumstances, and conditions as may bring abc
29 | prevention and control of energy and environmental incidents in the area comprising the party states, to coordinate
30 | nuclear, environmental and other energy-related incident prevention and control plans and the work relating thereto of the
31 | appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with
32 | energy and environmental incidents.

33 | The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for
34 | coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or
35 | subregions of the geographic area covered by this compact.

36 | VI. Supplementary Agreements

37 | ~~(a)~~-A. To the extent that the Board has not undertaken any activity or project which would be within its power under
38 | the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative
39 | officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any
40 | such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal
41 | therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be
42 | necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior
43 | to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary
44 | agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or
45 | activity conducted by or participated in by the Board.

46 | ~~(b)~~-B. Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be
47 | borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any
48 | supplementary agreement.

49 | ~~(c)~~-C. No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any
50 | obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance
51 | of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the
52 | compact.

53 | VII. Other Laws and Relationships

54 | Nothing in this compact shall be construed to:

55 | ~~(a)~~-A. Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation
56 | or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

1 ~~(b)~~ B. Limit, diminish, or otherwise impair jurisdiction exercised by the United States Department of Energy, any
2 agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and
3 operative act of Congress.

4 ~~(c)~~ C. Alter the relations between and respective internal responsibilities of the government of a party state and its
5 subdivisions.

6 ~~(d)~~ D. Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for
7 the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial
8 purposes.

9 VIII. Eligible Parties, Entry Into Force or Withdrawal

10 ~~(a)~~ A. Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland,
11 Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, the
12 Commonwealth of Puerto Rico, and the United States Virgin Islands shall be eligible to become party to this compact.

13 ~~(b)~~ B. As to any eligible party state, this compact shall become effective when its legislature shall have enacted the
14 same into law; provided that it shall not become initially effective until enacted into law by seven states.

15 ~~(c)~~ C. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such
16 withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing to the
17 governor of each other party state informing said governors of the action of the legislature in repealing the compact and
18 declaring an intention to withdraw.

19 IX. Severability and Construction

20 The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and
21 if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to
22 the constitution of any participating state or of the United States or the applicability thereof to any government, agency,
23 person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and
24 the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or
25 any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating
26 therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in
27 full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any
28 supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§ 2-1-337~~ 2.2-5601. Appointment and term of members of Southern States Energy Board.

31 The Governor, the Senate Committee on Privileges and Elections ~~Committee of the Senate~~, and the Speaker of the
32 House of Delegates shall each appoint one member of the Southern States Energy Board as established by Article II of the
33 compact, to serve at the pleasure of their appointive authority for a term of four years. If any ~~such member~~ appointed ~~is~~ the
34 head of a department or agency of ~~this the~~ Commonwealth, he may designate a subordinate officer or employee of his
35 department or agency to serve in his stead as permitted by Article II ~~(a)~~ A. of the compact and in conformity with any
36 applicable bylaws of the Board.

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 2-1-338~~ 2.2-5602. Supplementary agreements.

39 No supplementary agreement entered into pursuant to Article VI of the compact and requiring the expenditure of
40 funds or the assumption of an obligation to expend funds in addition to those already appropriated shall become effective as
41 to ~~this the~~ Commonwealth unless funds therefor are or have been appropriated ~~therefor~~ as provided by law.

42 **DRAFTING NOTE:** Technical corrections only.

43 ~~§ 2-1-339~~ 2.2-5603. Cooperation of departments, agencies and officers of Commonwealth.

44 All departments, agencies and officers of ~~this the~~ Commonwealth and its political subdivisions ~~are hereby authorized~~
45 ~~to may~~ cooperate with the Southern States Energy Board in the furtherance of any of its activities pursuant to the compact.

46 **DRAFTING NOTE:** Technical corrections only.

47 CHAPTER 57.

48 SOUTHERN GROWTH POLICIES AGREEMENT.

49 ~~§ 2-1-339-1~~ 2.2-5700. Form of agreement.

50 The Southern Growth Policies Agreement is hereby enacted into law and entered into by ~~this the~~ Commonwealth
51 with all other states legally joining therein in the form substantially as follows:

1 | SOUTHERN GROWTH POLICIES AGREEMENT

2 | Article I. Findings and Purposes.

3 | ~~(a)-A.~~ The party states find that the South has a sense of community based on common social, cultural and
4 | economic needs and fostered by a regional tradition. There are vast potentialities for mutual improvement of each state in the
5 | region by cooperative planning for the development, conservation and efficient utilization of human and natural resources in a
6 | geographic area large enough to afford a high degree of flexibility in identifying and taking maximum advantage of
7 | opportunities for healthy and beneficial growth. The independence of each state and the special needs of subregions are
8 | recognized and are to be safeguarded. Accordingly, the cooperation resulting from this agreement is intended to assist the
9 | states in meeting their own problems by enhancing their abilities to recognize and analyze regional opportunities and take
10 | account of regional influences in planning and implementing their public policies.

11 | ~~(b)-B.~~ The purposes of this agreement are to provide:

- 12 | 1. Improved facilities and procedures for study, analysis and planning of governmental policies, programs and
13 | activities of regional significance.
14 | 2. Assistance in the prevention of interstate conflicts and the promotion of regional cooperation.
15 | 3. Mechanisms for the coordination of state and local interests on a regional basis.
16 | 4. An agency to assist the states in accomplishing the foregoing.

17 | Article II. The Board.

18 | ~~(a)-A.~~ There is hereby created the Southern Growth Policies Board, hereinafter called "the Board."

19 | ~~(b)-B.~~ The Board shall consist of five members from each party state, as follows:

- 20 | 1. The governor.
21 | 2. Two members of the state legislature, one appointed by the presiding officer of each house of the legislature or in
22 | such other manner as the legislature may provide.
23 | 3. Two residents of the state who shall be appointed by the governor to serve at his pleasure.

24 | ~~(c)-C.~~ In making appointments pursuant to paragraph ~~(b)-B~~ 3, a governor shall, to the greatest extent practicable,
25 | select persons who, along with the other members serving pursuant to paragraph ~~(b)-B~~, will make the state's representation
26 | on the Board broadly representative of the several socioeconomic elements within his state.

27 | ~~(d)-D.~~ 1. A governor may be represented by an alternate with power to act in his place and stead, if notice of the
28 | designation of such alternate is given to the Board in such manner as its bylaws may provide.

29 | 2. A legislative member of the Board may be represented by an alternate with power to act in his place and stead,
30 | unless the laws of his state prohibit such representation and if notice of the designation of such alternate is given to the Board
31 | in such manner as its bylaws may provide. An alternate for a legislative member of the Board shall be selected by the
32 | member from among the members of the legislative house in which he serves.

33 | 3. A member of the Board serving pursuant to paragraph ~~(b)-B~~ 3 of this article may be represented by another
34 | resident of his state who may participate in his place and stead, except that he shall not vote; provided that notice of the
35 | identity and designation of the representative selected by the member is given to the Board in such manner as its bylaws may
36 | provide.

37 | Article III. Powers.

38 | ~~(a)-A.~~ The Board shall prepare and keep current a Statement of Regional Objectives, including recommended
39 | approaches to regional problems. The Statement may also identify projects deemed by the Board to be of regional
40 | significance. The Statement shall be available in its initial form two years from the effective date of this agreement and shall
41 | be amended or revised no less frequently than once every six years. The Statement shall be in such detail as the Board may
42 | prescribe. Amendments, revisions, supplements or evaluations may be transmitted at any time. An annual commentary on the
43 | Statement shall be submitted at a regular time to be determined by the Board.

44 | ~~(b)-B.~~ In addition to powers conferred on the Board elsewhere in this agreement, the Board shall have the power to
45 | make or commission studies, investigations and recommendations with respect to:

- 46 | 1. The planning and programming of projects of interstate or regional significance.
47 | 2. Planning and scheduling of governmental services and programs which would be of assistance to the orderly
48 | growth and prosperity of the region, and to the well-being of its population.
49 | 3. Effective utilization of such federal assistance as may be available on a regional basis or as may have an
50 | interstate or regional impact.
51 | 4. Measures for influencing population distribution, land use, development of new communities and redevelopment
52 | of existing ones.
53 | 5. Transportation patterns and systems of interstate and regional significance.

6. Improved utilization of human and natural resources for the advancement of the region as a whole.

7. Any other matters of a planning, data collection or informational character that the Board may determine to be of value to the party states.

Article IV. Avoidance of Duplication.

~~(a)-A.~~ To avoid duplication of effort and in the interest of economy, the Board shall make use of existing studies, surveys, plans and data and other materials in the possession of the governmental agencies of the party states and their respective subdivisions or in the possession of other interstate agencies. Each such agency, within available appropriations and if not expressly prevented or limited by law, is hereby authorized to make such materials available to the Board and to otherwise assist it in the performance of its functions. At the request of the Board, each such agency is further authorized to provide information regarding plans and programs affecting the region, or any subarea thereof, so that the Board may have available to it current information with respect thereto.

~~(b)-B.~~ The Board shall use qualified public and private agencies to make investigations and conduct research, but if it is unable to secure the undertaking of such investigations or original research by a qualified public or private agency, it shall have the power to make its own investigations and conduct its own research. The Board may make contracts with any public or private agencies or private persons or entities for the undertaking of such investigations or original research within its purview.

~~(c)-C.~~ In general, the policy of paragraph ~~(b)-B~~ of this article shall apply to the activities of the Board relating to its Statement of Regional Objectives, but nothing herein shall be construed to require the Board to rely on the services of other persons or agencies in developing the Statement of Regional Objectives or any amendment, supplement or revision thereof.

Article V. Advisory Committees.

The Board shall establish a Local Governments Advisory Committee. In addition, the Board may establish advisory committees representative of subregions of the South, civic and community interests, industry, agriculture, labor or other categories or any combinations thereof. Unless the laws of a party state contain a contrary requirement, any public official of the party state or a subdivision thereof may serve on an advisory committee established pursuant hereto and such service may be considered as a duty of his regular office or employment.

Article VI. Internal Management of the Board.

~~(a)-A.~~ The members of the Board shall be entitled to one vote each. No action of the Board shall be binding unless taken at a meeting at which a majority of the total number of votes on the Board are cast in favor thereof. Action of the Board shall be only at a meeting at which a majority of the members or their alternates are present. The Board shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Board may delegate the exercise of any of its powers relating to internal administration and management to an Executive Committee or the Executive Director. In no event shall any such delegation include final approval of:

1. A budget or appropriation request.
2. The Statement of Regional Objectives or any amendment, supplement or revision thereof.
3. Official comments on or recommendations with respect to projects of interstate or regional significance.
4. The annual report.

~~(b)-B.~~ To assist in the expeditious conduct of its business when the full Board is not meeting, the Board shall elect an Executive Committee of not to exceed seventeen members, including at least one member from each party state. The Executive Committee, subject to the provisions of this agreement and consistent with the policies of the Board, shall be constituted and function as provided in the bylaws of the Board. One-half of the membership of the Executive Committee shall consist of governors, and the remainder shall consist of other members of the Board, except that at any time when there is an odd number of members on the Executive Committee, the number of governors shall be one less than half of the total membership. The members of the Executive Committee shall serve for terms of two years, except that members elected to the first Executive Committee shall be elected as follows: one less than half of the membership for two years and the remainder for one year. The Chairman, Chairman-Elect, Vice-Chairman and Treasurer of the Board shall be members of the Executive Committee and anything in this paragraph to the contrary notwithstanding shall serve during their continuance in these offices. Vacancies in the Executive Committee shall not affect its authority to act, but the Board at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term.

~~(c)-C.~~ The Board shall have a seal.

~~(d)-D.~~ The Board shall elect, from among its members, a Chairman, a Chairman-Elect, a Vice-Chairman and a Treasurer. Elections shall be annual. The Chairman-Elect shall succeed to the office of Chairman for the year following his service as Chairman-Elect. For purposes of the election and service of officers of the Board, the year shall be deemed to commence at the conclusion of the annual meeting of the Board and terminate at the conclusion of the next annual meeting thereof. The Board shall provide for the appointment of an Executive Director. Such Executive Director shall serve at the pleasure of the Board, and together with the Treasurer and such other personnel as the Board may deem appropriate shall be bonded in such amounts as the Board shall determine. The Executive Director shall be Secretary.

1 | ~~(e)~~ E. The Executive Director, subject to the policy set forth in this agreement and any applicable directions give
2 | the Board, may make contracts on behalf of the Board.

3 | ~~(f)~~ F. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the Executive
4 | Director, subject to the approval of the Board, shall appoint, remove or discharge such personnel as may be necessary for the
5 | performance of the functions of the Board, and shall fix the duties and compensation of such personnel. The Board in its
6 | bylaws shall provide for the personnel policies and programs of the Board.

7 | ~~(g)~~ G. The Board may borrow, accept or contract for the services of personnel from any party jurisdiction, the United
8 | States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party
9 | jurisdictions or their subdivisions.

10 | ~~(h)~~ H. The Board may accept for any of its purposes and functions under this agreement any and all donations, and
11 | grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or
12 | any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize
13 | and dispose of the same. Any donation or grant accepted by the Board pursuant to this paragraph or services borrowed
14 | pursuant to paragraph ~~(g)~~ G of this article shall be reported in the annual report of the Board. Such report shall include the
15 | nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

16 | ~~(i)~~ I. The Board may establish and maintain such facilities as may be necessary for the transacting of its business.
17 | The Board may acquire, hold, and convey real and personal property and any interest therein.

18 | ~~(j)~~ J. The Board shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind
19 | these bylaws. The Board shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any
20 | amendment thereto, with the appropriate agency or officer in each of the party states.

21 | ~~(k)~~ K. The Board annually shall make to the governor and legislature of each party state a report covering the
22 | activities of the Board for the preceding year. The Board at any time may make such additional reports and transmit such
23 | studies as it may deem desirable.

24 | ~~(l)~~ L. The Board may do any other or additional things appropriate to implement powers conferred upon it by this
25 | agreement.

26 | Article VII. Finance.

27 | ~~(a)~~ A. The Board shall advise the governor or designated officer or officers of each party state of its budget of
28 | estimated expenditures for such period as may be required by the laws of that party state. Each of the Board's budget
29 | estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of
30 | party states.

31 | ~~(b)~~ B. The total amount of appropriation requests under any budget shall be apportioned among the party states.
32 | Such apportionment shall be in accordance with the following formula:

- 33 | 1. One third in equal shares,
34 | 2. One third in the proportion that the population of a party state bears to the population of all party states, and
35 | 3. One third in the proportion that the per capita income in a party state bears to the per capita income in all party
36 | states.

37 | In implementing this formula, the Board shall employ the most recent authoritative sources of information and shall
38 | specify the sources used.

39 | ~~(c)~~ C. The Board shall not pledge the credit of any party state. The Board may meet any of its obligations in whole or
40 | in part with funds available to it pursuant to Article VI ~~(h)~~ H of this agreement, provided that the Board takes specific action
41 | setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Board
42 | makes use of funds available to it pursuant to Article VI ~~(h)~~ H, or borrows pursuant to this paragraph, the Board shall not incur
43 | any obligation prior to the allotment of funds by the party states adequate to meet the same. The Board may borrow against
44 | anticipated revenues for terms not to exceed two years, but in any such event the credit pledged shall be that of the Board
45 | and not a party state.

46 | ~~(d)~~ D. The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of
47 | the Board shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and
48 | disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant, and the
49 | report of the audit shall be included in and become part of the annual report of the Board.

50 | ~~(e)~~ E. The accounts of the Board shall be open at any reasonable time for inspection by duly constituted officers of
51 | the party states and by any persons authorized by the Board.

52 | ~~(f)~~ F. Nothing contained herein shall be construed to prevent Board compliance with laws relating to audit or
53 | inspection of accounts by or on behalf of any government contributing to the support of the Board.

54 | Article VIII. Cooperation with the Federal Government and Other Governmental Entities.

55 | Each party state is hereby authorized to participate in cooperative or joint planning undertakings with the fe
56 | government, and any appropriate agency or agencies thereof, or with any interstate agency or agencies. Such participat...

1 shall be at the instance of the governor or in such manner as state law may provide or authorize. The Board may facilitate the
2 work of state representatives in any joint interstate or cooperative federal-state undertaking authorized by this article, and
3 each such state shall keep the Board advised of its activities in respect of such undertakings, to the extent that they have
4 interstate or regional significance.

5 Article IX. Subregional Activities.

6 The Board may undertake studies or investigations centering on the problems of one or more selected subareas
7 within the region; provided that in its judgment, such studies or investigations will have value as demonstrations for similar or
8 other areas within the region. If a study or investigation that would be of primary benefit to a given state, unit of local
9 government, or intrastate or interstate area is proposed, and if the Board finds that it is not justified in undertaking the work for
10 its regional value as a demonstration, the Board may undertake the study or investigation as a special project. In any such
11 event, it shall be a condition precedent that satisfactory financing and personnel arrangements be concluded to assure that
12 the party or parties benefited bear all costs which the Board determines that it would be inequitable for it to assume. Prior to
13 undertaking any study or investigation pursuant to this article as a special project, the Board shall make reasonable efforts to
14 secure the undertaking of the work by another responsible public or private entity in accordance with the policy set forth in
15 Article IV-~~(b)~~ B.

16 Article X. Comprehensive Land Use Planning.

17 If any two or more contiguous party states desire to prepare a single or consolidated comprehensive land use plan,
18 or a land use plan for any interstate area lying partly within each such state, the governors of the states involved may
19 designate the Board as their joint agency for the purpose. The Board shall accept such designation and carry out such
20 responsibility; provided that the states involved make arrangements satisfactory to the Board to reimburse it or otherwise
21 provide the resources with which the land use plan is to be prepared. Nothing contained in this article shall be construed to
22 deny the availability for use in the preparation of any such plan of data and information already in the possession of the Board
23 or to require payment on account of the use thereof in addition to payments otherwise required to be made pursuant to other
24 provisions of this agreement.

25 Article XI. Compacts and Agencies Unaffected.

26 Nothing in this agreement shall be construed to:

- 27 1. Affect the powers or jurisdiction of any agency of a party state or any subdivision thereof.
- 28 2. Affect the rights or obligations of any governmental units, agencies or officials, or of any private persons or entities
29 conferred or imposed by any interstate or interstate-federal compacts to which any one or more states participating herein are
30 parties.
- 31 3. Impinge on the jurisdiction of any existing interstate-federal mechanism for regional planning or development.

32 Article XII. Eligible Parties; Entry Into and Withdrawal.

33 ~~(a)~~ A. This agreement shall have as eligible parties the states of Alabama, Arkansas, Delaware, Florida, Georgia,
34 Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia
35 and West Virginia, the Commonwealth of Puerto Rico and the Territory of the Virgin Islands, hereinafter referred to as party
36 states.

37 ~~(b)~~ B. Any eligible state may enter into this agreement and it shall become binding thereon when it has adopted the
38 same; provided that in order to enter into initial effect, adoption by at least five states shall be required.

39 ~~(c)~~ C. Adoption of the agreement may be either by enactment thereof or by adherence thereto by the governor;
40 provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until
41 December 31, 1973. During any period when a state is participating in this agreement through gubernatorial action, the
42 governor may provide to the Board an equitable share of the financial support of the Board from any source available to him.
43 Nothing in this paragraph shall be construed to require a governor to take action contrary to the constitution or laws of his
44 state.

45 ~~(d)~~ D. Except for a withdrawal effective on December 31, 1973, in accordance with paragraph ~~(e)~~ C of this article, any
46 party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take
47 effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors
48 of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the
49 time of such withdrawal.

50 Article XIII. Construction and Severability.

51 This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this
52 agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to
53 the constitution of any state or of the United States, or the application thereof to any government, agency, person, or
54 circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government,
55 agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of

1 any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable
2 matters.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 2.1-339.2 2.2-5701.~~ Bylaws and amendments to be filed with Secretary of Commonwealth.

5 Copies of bylaws and amendments to be filed pursuant to Article VI ~~(j)~~ of the agreement shall be filed with the
6 Secretary of the Commonwealth.

7 **DRAFTING NOTE:** Technical corrections only.

8 ~~§ 2.1-339.3 2.2-5702.~~ Participation with other states not terminated.

9 Nothing contained in the Southern Growth Policies Agreement as enacted by this chapter shall in any event be
10 construed to terminate the participation of ~~this the~~ Commonwealth with any state which adopted the Southern Growth Policies
11 Agreement prior to June 1, 1973, except that the provisions of Article XII ~~(e)~~C shall govern with respect to the continuance of
12 states as parties thereto after December 31, 1973.

13 **DRAFTING NOTE:** Technical corrections only.

14 **CHAPTER 58.**

15 **DELMARVA PENINSULA COMPACT.**

16 ~~§ 2.1-339.4 2.2-5800.~~ Formation of Delmarva ~~Advisory Council~~ Peninsula Compact.

17 The Governor of ~~this the~~ Commonwealth ~~is empowered to may~~ execute a compact or agreement on behalf of the
18 Commonwealth and the states of Delaware and Maryland, joining with them to form the Delmarva Advisory Council. The
19 Council's rights, duties and functions shall be substantially as follows within this chapter.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 2.1-339.5 2.2-5801.~~ Jurisdiction and Delmarva Advisory Council; membership; jurisdiction meetings; compensation.

22 A. Upon enactment of similar legislation by the states of Maryland and Delaware, the Delmarva Advisory Council
23 shall be established as a regional advisory council for the Delmarva Peninsula. The Council shall be concerned with all of the
24 Delmarva Peninsula south of the Chesapeake and Delaware Canal. Such jurisdiction shall include all of Kent and Sussex
25 Counties and a portion of New Castle County in Delaware; all of the Counties of Kent, Queen Anne's, Caroline, Talbot,
26 Dorchester, Wicomico, Worcester, and Somerset and a portion of Cecil County in Maryland; and all of Accomack and
27 Northampton Counties in Virginia.

28 B. The membership of the Council shall consist of:

29 1. Five members appointed by the Governor of Delaware, five members appointed by the Governor of Maryland, and
30 five members appointed by the Governor of Virginia; and

31 2. Such other members from county and municipal governments, and from the private sector as may be established
32 from time to time in the bylaws of the Council.

33 C. Council members shall annually elect a chairman and such other officers as may be deemed necessary.

34 D. The Council shall hold quarterly meetings at a time and place designated by the Council, and shall hold additional
35 meetings as are deemed necessary.

36 E. The Council shall hold not less than one meeting each year at which the public is given an opportunity to express
37 views concerning regional issues.

38 F. The Council may adopt bylaws, rules and regulations for its governing and operation not inconsistent with this
39 chapter or laws of the states of Delaware, Maryland and Virginia.

40 G. Members of the council shall serve without pay except that each shall be reimbursed for actual expenses
41 incurred in the performance of their duties.

42 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
43 A, B, C and G are § 2.1-339.5 and subsections D, E, and F are § 2.1-339.6.

44 ~~§ 2.1-339.6. Rules and regulations; meetings.~~

45 ~~A. The Council shall hold quarterly meetings at a time and place designated by the Council, and shall hold additional~~
46 ~~meetings as are deemed necessary.~~

47 ~~B. The Council shall hold not less than one meeting each year at which the public is given an opportunity to express~~
48 ~~views concerning regional issues.~~

2 ~~C. The Council may adopt bylaws, rules and regulations for its governing and operation not inconsistent with this~~
3 ~~legislation or laws of the states of Delaware, Maryland and Virginia.~~

3 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D, E and F of proposed § 2.2-5801.

4 ~~§ 2.1-339.7~~ 2.2-5802. Duties and responsibilities of the Council.

5 The duties and responsibilities of the Council shall include but are not limited to:

6 ~~(i)~~ 1. Assist in the identification of perceived regional problems and issues;

7 ~~(ii)~~ 2. Assist in effective solutions for such problems and issues;

8 ~~(iii)~~ 3. Assist in the resolution of such problems and issues in order to promote a balanced development to improve
9 the economic conditions, quality of life, and environmental concerns of the people of the Delmarva Peninsula;

10 ~~(iv)~~ 4. Advise the Governors, Secretaries, Legislatures and other local and state agencies on options to solve
11 regional and interstate problems and issues as pertaining to the Delmarva Peninsula;

12 ~~(v)~~ 5. Prepare and submit quarterly reports and furnish such reports as well as any requested studies by the
13 Governors; and

14 ~~(vi)~~ 6. Serve in an advisory capacity only.

15 **DRAFTING NOTE:** Technical corrections only.

16 ~~§ 2.1-339.8~~ 2.2-5803. Funding of the Council; staff.

17 A. The Council may accept gifts and grants from any individual, group, association, or corporation, or from the United
18 States Government, subject to such limitations or conditions as may be provided by law.

19 B. The Council shall employ ~~such professional and clerical~~ the necessary personnel and consultants ~~as are~~
20 ~~necessary~~ to perform ~~such the lawful duties as may be lawful in accordance with~~ required by this chapter.

21 C. The Delmarva Advisory Council shall receive such funding as is appropriated by law by the states of Delaware,
22 Maryland and Virginia.

23 **DRAFTING NOTE:** Technical corrections only.

II. Title Outline—Proposed 9.1 “Commonwealth Public Safety”

- Chapter 1 Department of Criminal Justice Services
- Article 1..... General Provisions
 - Article 2..... Division of Forensic Science
 - Article 3..... Criminal Justice Information System
 - Article 4..... Private Security Services Businesses
 - Article 5..... Court-Appointed Special Advocate Program
 - Article 6..... Crime Prevention Center
 - Article 7..... Detoxification Center Program
 - Article 8..... Law-Enforcement Expenditures
 - Article 9..... Comprehensive Community Corrections Act for Local-Responsible Offenders.
 - Article 10..... Virginia Center for School Safety
- Chapter 2 Department of Fire Programs
- Chapter 3 Firefighter’s and Emergency Medical Technician’s Procedural Guarantees Act.
- Chapter 4 Police Line of Duty Act
- Chapter 5 Law-Enforcement Officers’ Procedural Guarantees Act.

2 ~~5~~—"Correctional status information" means records and data concerning each condition of a convicted person's
3 custodial status, including probation, confinement, work release, study release, escape, or termination of custody through
4 expiration of sentence, parole, pardon, or court decision.

5 ~~6~~—"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements,
6 and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information.
7 The operations of the system may be performed manually or by using electronic computers or other automated data
8 processing equipment.

9 ~~7~~—"Department" means the Department of Criminal Justice Services.

10 ~~8~~—"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term
11 ~~does~~ shall not include access to the information by officers or employees of a criminal justice agency maintaining the
12 information who have both a need and right to know the information.

13 ~~9~~—"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office
14 which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
15 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of ~~this~~ the Commonwealth, and
16 shall include any (i) special agent of the Department of Alcoholic Beverage Control, ~~any~~; (ii) police agent appointed under the
17 provisions of § 56-353, ~~any~~; (iii) officer of the Virginia Marine Patrol, ~~any~~; (iv) game warden who is a full-time sworn member
18 of the enforcement division of the Department of Game and Inland Fisheries, ~~any~~; (v) agent, investigator, or inspector
19 appointed under § 56-334; or ~~any~~ (vi) investigator who is a full-time sworn member of the security division of the State Lottery
20 Department. Part-time employees are those compensated officers who are not full-time employees as defined by the
21 employing police department or sheriff's office. Full-time sworn members of the enforcement division of the Department of
22 Motor Vehicles meeting the Department of Criminal Justice Services qualifications shall be deemed to be "law-enforcement
23 officers" when fulfilling their duties pursuant to § 46.2-217.

24 ~~10~~—"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of
25 conviction, and the consequences arising therefrom, in any court.

26 **DRAFTING NOTE:** Technical corrections only.

27 ~~§ 9-170~~ 9.1-102. Powers and duties of the Board and the Department.

28 The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties
29 and powers hereunder, shall have the power and duty to:

30 1. ~~Promulgate~~ Adopt regulations, pursuant to the Administrative Process Act (~~§ 9-6-14:1- 2.2-4000~~ et seq.), for the
31 administration of (i) this chapter including the authority to require the submission of reports and information by law-
32 enforcement officers within ~~this~~ the Commonwealth or (ii) §§ 18.2-268.6, 18.2-268.9, 19.2-188.1, 19.2-310.5 and for any
33 provisions of the Code as they relate to the responsibilities of the Division of Forensic Science. Any proposed regulations
34 concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment
35 to any board, commission, or committee or other body which may be established by the General Assembly to regulate the
36 privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision
37 thereof;

38 2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) ~~in~~
39 permanent positions, and (ii) ~~in~~ temporary or probationary status, and establish the time required for completion of such
40 training;

41 3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement
42 officers serving as field training officers;

43 4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for
44 schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-
45 enforcement officers;

46 5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical
47 or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required
48 for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who
49 provide such training;

50 6. Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment,
51 search and seizure, evidence, and techniques of report writing, which training shall be completed by law-enforcement officers
52 who have not completed the compulsory training standards set out in subdivision 2-~~above~~, prior to assignment of any such
53 officers to undercover investigation work. Failure to complete ~~such~~ the training shall not, for that reason, constitute grounds to
54 exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover
55 investigation;

56 7. Establish compulsory minimum entry level, in-service and advanced training standards for those persons
57 designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time
required for completion of such training;

- 1 8. Establish compulsory minimum entry level, in-service and advanced training standards for deputy sheriffs
2 designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion
3 such training;
- 4 9. Establish compulsory minimum entry-level, in-service, and advanced training standards for persons employed as
5 ~~jailers or custodial deputy sheriffs and jail officers~~ by local criminal justice agencies and for correctional officers employed by
6 the Department of Corrections under the provisions of Title 53.1, and establish the time required for completion of such
7 training;
- 8 10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state
9 government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply
10 only to dispatchers hired on or after July 1, 1988;
- 11 11. Consult and cooperate with counties, municipalities, agencies of ~~this the~~ Commonwealth, other state and federal
12 governmental agencies, and with universities, colleges, ~~junior community~~ colleges, and other institutions, whether located in
13 or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;
- 14 12. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school
15 operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such
16 school whether approved or not;
- 17 13. Establish and maintain police training programs through such agencies and institutions as the Board ~~may deem~~
18 deems appropriate;
- 19 14. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice
20 training schools approved by the Department;
- 21 15. Conduct and stimulate research by public and private agencies which shall be designed to improve police
22 administration and law enforcement;
- 23 16. Make recommendations concerning any matter within its purview pursuant to this chapter;
- 24 17. Coordinate its activities with those of any interstate system for the exchange of criminal history record
25 information, nominate one or more of its members to serve upon the council or committee of any such system, and participate
26 when and as deemed appropriate in any such system's activities and programs;
- 27 18. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and
28 ~~conducting such inquiries and investigations, shall have the authority to~~ may require any criminal justice agency to submit
29 information, reports, and statistical data with respect to its policy and operation of information systems or with respect to
30 collection, storage, dissemination, and usage of criminal history record information and correctional status information, and
31 such criminal justice agencies shall submit such information, reports, and data as are reasonably required;
- 32 19. Conduct audits as required by ~~§ 9-186~~ 9.1-131;
- 33 20. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history
34 record information and correctional status information;
- 35 21. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of
36 privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;
- 37 22. Maintain a liaison with any board, commission, committee, or other body which may be established by law,
38 executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any
39 political subdivision thereof;
- 40 ~~23. Issue~~ Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of
41 criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof
42 necessary to implement state and federal statutes, regulations, and court orders;
- 43 ~~24. The Department of State Police shall be the central terminal agency for the Commonwealth and perform all~~
44 ~~functions required of a control terminal agency by the regulations of the National Crime Information Center. Notwithstanding~~
45 ~~any other provision to the contrary in this chapter, the Central Criminal Records Exchange and the Department of State Police~~
46 ~~shall remain the central repository for criminal history record information in the Commonwealth, and the Department shall~~
47 ~~continue to be responsible for the management and operation of such exchange;~~
- 48 ~~25~~ 24. Operate a statewide criminal justice ~~statistical analysis research center~~, which shall maintain a ~~unified an~~
49 integrated criminal justice ~~data information~~ system, produce reports, provide technical assistance to state and local criminal
50 justice data system users, and provide analysis and interpretation of criminal justice statistical information;
- 51 ~~26~~ 25. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and
52 the administration of criminal justice throughout the Commonwealth, and periodically update that plan;
- 53 ~~27~~ 26. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
54 Commonwealth, and units of general local government, or combinations thereof, including planning district commissions in
55 planning, developing, and administering programs, projects, comprehensive plans, and other activities for improv

1 enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting
2 funds for these purposes;

3 ~~2827~~. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities
4 for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to
5 strengthen and improve law enforcement and the administration of criminal justice at every level throughout the
6 Commonwealth;

7 ~~2928~~. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or
8 alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of
9 criminal justice;

10 ~~3029~~. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth
11 and of the units of general local government, or combination thereof, including planning district commissions, relating to the
12 preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law
13 enforcement and the administration of criminal justice;

14 ~~3430~~. Do all things necessary on behalf of the Commonwealth and its units of general local government, to
15 determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82
16 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement,
17 the administration of criminal justice, and delinquency prevention and control;

18 ~~3231~~. Receive, administer, and expend all funds and other assistance available to the Board and the Department for
19 carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

20 ~~3332~~. Apply for and accept grants from the United States government or any other source in carrying out the
21 purposes of this chapter and accept any and all donations both real and personal, and grants of money from any
22 governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose
23 of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall
24 include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to
25 this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the
26 power to comply with conditions and execute such agreements as may be necessary;

27 ~~3433~~. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and
28 execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local
29 government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

30 ~~3534~~. Adopt and administer reasonable regulations for the planning and implementation of programs and activities
31 and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local
32 government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

33 ~~3635~~. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

34 ~~3736~~. Provide forensic laboratory services as detailed in Article ~~4-2~~ (~~§ 9-106.1~~ 9.1-117 et seq.) of this chapter;

35 ~~3837~~. Establish training standards and publish a model policy for law-enforcement personnel in the handling of
36 family abuse cases;

37 ~~3938~~. Establish training standards and publish a model policy for law-enforcement personnel in communicating with
38 and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

39 ~~4039~~. Establish compulsory training standards for law-enforcement officers to ensure sensitivity to and awareness of
40 cultural diversity;

41 ~~4440~~. Review and evaluate community policing programs in the Commonwealth, and recommend where necessary
42 statewide operating procedures, guidelines, and standards which strengthen and improve such programs;

43 ~~4241~~. Assist, as necessary, in the administration of the Live In Our Community Police Housing Program and Fund
44 established pursuant to Chapter 8.1 (§ 36-140.1 et seq.) of Title 36; and

45 ~~42~~. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

46 **DRAFTING NOTE:** Technical corrections. Existing subdivision 25, shown here as stricken, now appears as subsection C in
47 proposed § 9.1-127 in proposed Article 3 of this Chapter -- Criminal Justice Information System. Additionally, on the
48 recommendation of the Department of Criminal Justice Services, the term "jailers or custodial officers" was replaced with
49 "deputy sheriffs and jail officers" in subdivision 9 to make it consistent with § 53.1-1; the phrase "operate a statewide criminal
50 justice statistical analysis center" was replaced with "operate a statewide criminal justice research center" in subdivision 25 to
51 clarify that the activities listed in this subdivision are performed by the Department of Criminal Justice Services criminal justice
52 research center and not the statistical analysis center; also in proposed subdivision 24, the phrase "maintain a unified
53 criminal justice data system" was replaced with "maintain an integrated criminal justice information system" since a unified
54 criminal justice data system does not exist.

55 ~~§-483~~ 9.1-103. Direct operational responsibilities in law enforcement not authorized.

1 Nothing in this chapter shall be construed as authorizing the Department of Criminal Justice Services to undertake
2 direct operational responsibilities in law enforcement or the administration of criminal justice.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 9-173.3~~ 9.1-104. Establishment of victim and witness assistance programs; purpose; rules and regulations
5 guidelines.

6 A. The Department of Criminal Justice Services shall ~~rules and regulations~~ adopt guidelines, the purpose of which
7 shall be to make funds available to local governments for establishing, operating and maintaining victim and witness
8 assistance programs which provide services to the victims of crime and witnesses in the criminal justice system.

9 B. The Department of Criminal Justice Services shall establish a grant procedure to govern funds awarded for this
10 purpose.

11 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Department of Criminal Justice Services, the term
12 "rules and regulations" has been replaced with "guidelines" to conform with § 19.2-11.1 that requires local governments that
13 establish victim/witness programs funded by the Department of Criminal Justice Services to operate in accordance with
14 guidelines established by the Department of Criminal Justice Services.

15 ~~§ 9-178.1~~ 9.1-105. (Effective October 1, 1998) Intensified Drug Enforcement Jurisdictions Fund.

16 There is ~~hereby~~ created a special nonreverting fund to be administered by the Department of Criminal Justice
17 Services, known as the Intensified Drug Enforcement Jurisdictions Fund. This Fund shall be established on the books of the
18 Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall
19 remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 9-178.2~~ 9.1-106. Law enforcement expenditures Regional Criminal Justice Academy Training Fund.

22 There is ~~hereby~~ created a special nonreverting fund to be administered by the Department of Criminal Justice
23 Services, known as the Regional Criminal Justice Academy Training Fund. This Fund shall be established on the books of the
24 Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund, but shall
25 remain in the Fund. Interest earned on the Fund shall be credited to the Fund. The Fund shall consist of moneys forwarded to
26 the State Treasurer for deposit in the Fund as provided in §§ 16.1-69.48:1 and 17.1-275, which sums shall be deposited in
27 the state treasury to the credit of ~~this~~ the Fund. Money in the Fund shall be used to provide financial support for regional
28 criminal justice training academies, and shall be distributed as directed by the Department of Criminal Justice Services.

29 Existing funds for the regional criminal justice training academies shall not be reduced by either state or local entities
30 as a result of the enactment of Chapter 215 of the Acts of Assembly of 1997.

31 **DRAFTING NOTE:** Technical corrections only.

32 ~~§ 9-176~~ 9.1-107. Powers and duties of Director.

33 A. The Director shall be charged with executive and administrative responsibility to (i) carry out the specific duties
34 imposed on the Department under § 9.1-102 and (ii) maintain appropriate liaison with federal, state and local agencies and
35 units of government, or combinations thereof, in order that all programs, projects and activities for strengthening and
36 improving law enforcement and the administration of criminal justice may function effectively at all levels of government.

37 ~~The B. In addition, the Director of the Department shall have the following powers power and duty to:~~

38 ~~A. To accept-1. Accept grants from the United States government and agencies and instrumentalities thereof, and~~
39 ~~any other source. To these ends, the Department shall have the power to comply with such conditions and execute such~~
40 ~~agreements as may be necessary, convenient or desirable.~~

41 ~~B. To do-2. In accordance with the standards of classification of the Personnel Act (§ 2.2-2900 et seq.), employ and~~
42 ~~fix the salaries of Department personnel and enter into contracts for services necessary in the performance of the~~
43 ~~Department's functions.~~

44 ~~3. Do all acts necessary or convenient to carry out the purpose of this chapter and to assist the Board in carrying out~~
45 ~~its responsibilities under § 9-170 9.1-102.~~

46 ~~C. The Director shall be charged with executive and administrative responsibility to (i) carry out the specific duties~~
47 ~~imposed on the Department under § 9-170 and (ii) maintain appropriate liaison with federal, state and local agencies and~~
48 ~~units of government, or combinations thereof, in order that all programs, projects and activities for strengthening and~~
49 ~~improving law enforcement and the administration of criminal justice may function effectively from national to local levels.~~

50 ~~D. The Director shall employ and fix the salaries of such personnel and enter into contracts for services as may be~~
51 ~~necessary in the performance of the Department's functions. The salaries of such personnel shall be fixed in accordance with~~
52 ~~the standards of classification of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1.~~

2 ~~E. The Director under the direction and control of the Governor shall exercise such powers and perform such duties~~
3 ~~as are conferred by law upon him, and he shall perform such other duties as may be required of him by the Governor and the~~
4 ~~Board.~~

4 C. The Director shall be the Executive Director of the Board, but shall not be a member of the Board.

5 **DRAFTING NOTE:** Technical corrections. Existing subsection E now appears as subsection B in proposed § 9.1-100.
6 Proposed subsection C is existing § 9-177.

7 ~~§ 9-177. Executive Director of the Board.~~

8 ~~The Director shall be the Executive Director of the Board, but shall not be a member thereof.~~

9 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 9.1-107 supra.

10 ~~§ 9-178. Vested with authority of Board.~~

11 ~~The Director shall be vested with all the authority of the Board when it is not in session, subject to such rules and~~
12 ~~regulations as may be prescribed by the Board.~~

13 **DRAFTING NOTE:** Technical corrections. This section has been deleted as duplicative of subsection A of proposed § 9.1-
14 100 supra.

15 ~~§ 9-168 9.1-108. Criminal Justice Services Board, Committee on Training, and Advisory Committee on Juvenile~~
16 ~~Justice established; appointment membership; terms; vacancies; members not disqualified from holding other offices;~~
17 ~~designation of chairmen; expenses; meetings; compensation.~~

18 A. There is hereby created the The Criminal Justice Services Board is established as a policy board within the
19 meaning of § 2.2-2100, in the executive branch of state government. The Board shall ~~be composed~~ consist of twenty-seven
20 members ~~as set out below.~~ Eight members of the Board shall be as follows: the Chief Justice of the Supreme Court of
21 Virginia, or his designee; the Attorney General of Virginia, or his designee; the Superintendent of the Department of State
22 Police; the Director of the Department of Corrections; the Director of the Department of Juvenile Justice; the Superintendent
23 of the Department of Correctional Education; the Chairman of the Parole Board; and the Executive Secretary of the Supreme
24 Court of Virginia. In those instances in which the Executive Secretary of the Supreme Court of Virginia, the Superintendent of
25 the Department of State Police, the Director of the Department of Corrections, the Director of the Department of Juvenile
26 Justice, the Superintendent of the Department of Correctional Education, or the Chairman of the Parole Board will be
27 unavoidably absent from a board Board meeting, he may appoint a member of his staff to represent him at the meeting.

28 Fifteen members shall be appointed by the Governor from among residents of ~~this the~~ the Commonwealth. At least one
29 shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01. The
30 remainder shall be representative of the broad categories of state and local governments, criminal justice systems, and law-
31 enforcement agencies, including but not limited to, police officials, sheriffs, attorneys for the Commonwealth, defense
32 counsel, the judiciary, correctional and rehabilitative activities, and other locally elected and appointed administrative and
33 legislative officials. Among these members there shall be two sheriffs representing the Virginia State Sheriffs Association
34 selected from among names submitted by the Association; two representatives of the Chiefs of Police Association selected
35 from among names submitted by the Association; one attorney for the Commonwealth selected from among names submitted
36 by the Association for Commonwealth's Attorneys; one person who is a mayor, city or town manager, or member of a city or
37 town council representing the Virginia Municipal League selected from among names submitted by the League; one person
38 who is a county executive, manager, or member of a county board of supervisors representing the Virginia Association of
39 Counties selected from among names submitted by the Association; one member representing the Virginia Crime Prevention
40 Association selected from among names submitted by the Association; one member of the Private Security Services Advisory
41 Board; and one representative of the Virginia Association of Regional Jail Superintendents selected from among names
42 submitted by the Association.

43 Four members of the Board shall be members of the General Assembly appointed by the chairmen of legislative
44 committees as follows: one member of the House Committee on Appropriations ~~Committee of the House of Delegates~~; one
45 member of the Senate Committee on Finance of the Senate; one member of the House Committee for Courts of Justice of the
46 House of Delegates; and one member of the Senate Committee for Courts of Justice of the Senate. The legislative members
47 shall serve ~~for the terms for which they were elected~~ coincident with their terms of office and shall serve as ex officio, non-
48 voting members without a vote.

49 ~~B. There is further created a permanent Committee on Training under the Board which shall be the policy making~~
50 ~~body responsible to the Board for effecting the provisions of subdivisions 2 through 14 of § 9-170. The Committee on Training~~
51 ~~shall be composed of thirteen members of the Board as follows: the Superintendent of the Department of State Police; the~~
52 ~~Director of the Department of Corrections; the member of the Private Security Services Advisory Board; the Executive~~
53 ~~Secretary of the Supreme Court of Virginia; the two sheriffs representing the Virginia State Sheriffs Association; the two~~
54 ~~representatives of the Chiefs of Police Association; the attorney for the Commonwealth representing the Association for~~
55 ~~Attorneys for the Commonwealth; the representative of the Virginia Municipal League; the representative of the Virginia~~
56 ~~Association of Counties; the regional jail superintendent representing the Virginia Association of Regional Jails; and one~~

1 member designated by the Chairman of the Board from among the other appointments made by the Governor.
2 Committee on Training shall annually elect its chairman from among its members.

3 ~~C. There is further created a permanent Advisory Committee on Juvenile Justice which shall have the responsibility~~
4 ~~for advising and assisting the Board, the Department, all agencies, departments, boards and institutions of the~~
5 ~~Commonwealth, and units of general local government, or combinations thereof, on matters related to the prevention and~~
6 ~~treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth. The Advisory Committee~~
7 ~~shall consist of no less than fifteen and no more than twenty five members. The membership of the Advisory Committee shall~~
8 ~~include persons who have training, experience or special knowledge concerning the prevention and treatment of juvenile~~
9 ~~delinquency or the administration of juvenile justice as set out below. Four ex officio members with voting powers of the~~
10 ~~Advisory Committee shall be as follows: the Commissioner of the Department of Mental Health, Mental Retardation and~~
11 ~~Substance Abuse Services; the Commissioner of the Department of Social Services; the Director of the Department of~~
12 ~~Juvenile Justice; and the Superintendent of Public Instruction. Two members shall be members from the General Assembly,~~
13 ~~appointed by the chairmen of the following legislative committees: one member of the Senate Committee for Courts of Justice~~
14 ~~and one member of the House Committee on Health, Welfare and Institutions. The legislative members shall serve as ex~~
15 ~~officio members for the terms for which they were elected. All other members shall be residents of the Commonwealth and be~~
16 ~~appointed by the Governor for a term of four years, except that appointments to terms commencing on July 1, 1991, shall be~~
17 ~~as outlined below. Five members, appointed for four-year terms, shall include: two members from the Criminal Justice~~
18 ~~Services Board; one member with expertise in juvenile services; one member representing community-based delinquency~~
19 ~~prevention or treatment programs; and one member who is under the age of twenty four at the time of appointment. Six~~
20 ~~members shall be appointed for three-year terms and shall include one juvenile and domestic relations district court judge;~~
21 ~~one member who is a representative of local law enforcement; one member who is a local city or county administrator;~~
22 ~~one member who is a member of the Virginia State Bar; and two members who are under the age of twenty four at the time of~~
23 ~~appointment. Six members, appointed for two-year terms, shall include one member who is employed in a private~~
24 ~~organization with a special focus on maintaining and strengthening the family unit; one member who works as a volunteer~~
25 ~~with delinquents or potential delinquents; one member who is now or formerly has been under the jurisdiction of the Virginia~~
26 ~~juvenile justice system; one member who is an employee of a local juvenile and domestic relations district court service unit;~~
27 ~~one member who is a representative of business groups or businesses employing youth; and one member who represents~~
28 ~~organizations concerned with the quality of juvenile justice, education or social services for children. The majority of the~~
29 ~~Advisory Committee shall be private citizens and at least three members of the Advisory Committee, including two private~~
30 ~~citizens shall also be members of the Board. The Advisory Committee shall elect its chairman from among its members.~~
31 ~~Advisory Committee shall have the following specific duties and responsibilities:~~

32 1. ~~To review the operation of the juvenile justice system in the Commonwealth, including facilities and programs, and~~
33 ~~prepare appropriate reports;~~

34 2. ~~To review statewide plans, conduct studies, and make recommendations on needs and priorities for the~~
35 ~~development and improvement of the juvenile justice system in the Commonwealth; and~~

36 3. ~~To advise on all matters related to the federal Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-~~
37 ~~415, as amended), and recommend such actions on behalf of the Commonwealth as may seem desirable to secure benefits~~
38 ~~of that or other federal programs for delinquency prevention or the administration of juvenile justice.~~

39 ~~Each administrative entity or collegial body within the executive branch of the state government as may be~~
40 ~~requested to do so shall cooperate with the Advisory Committee as it carries out its responsibilities.~~

41 ~~D.B.~~ The members of the Board and Advisory Committee appointed by the Governor shall serve for terms of four
42 years, provided that no member shall serve beyond the time when he holds the office or employment by reason of which he
43 was initially eligible for appointment. Appointed members of the Board and Advisory Committee shall not be eligible to serve
44 as such for more than two consecutive full terms. Three or more years within a four-year period shall be deemed a full term.
45 Any vacancy on the Board and Advisory Committee shall be filled in the same manner as the original appointment, but for the
46 unexpired term.

47 ~~E.C.~~ The Governor shall appoint a Chairman-chairman of the Board, and the Board shall designate one or more vice-
48 chairmen from among its members, who shall serve at the pleasure of the Board.

49 ~~F.D.~~ Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary,
50 membership on the Board shall not disqualify any member from holding any other public office or employment, or cause the
51 forfeiture thereof.

52 ~~G.~~ Members of the Board and Advisory Committee shall be entitled to receive reimbursement for any actual
53 expenses incurred as a necessary incident to such service and to receive such compensation as is provided in § 2.1-20.3.

54 ~~H.E.~~ The Board and Advisory Committee shall each hold no less than four regular meetings a year. Subject to the
55 requirements of this subsection, the respective Chairman-chairman shall fix the times and places of meetings, either on his
56 own motion or upon written request of any five members of the Board or Advisory Committee.

57 ~~I.F.~~ The Board and Advisory Committee may adopt bylaws for their its operation.

1 G. Members of the Board shall receive compensation and shall be reimbursed for all reasonable and necessary
2 expenses incurred in the discharge of their duties as provided in § 2.2-2813.

3 **DRAFTING NOTE:** Technical corrections. Existing subsections B and C, shown here as stricken, now appear as proposed
4 §§ 9.1-112 and 9.1-111, respectively.

5 ~~§ 9-174 9.1-109.~~ Administration of federal programs.

6 The ~~Criminal Justice Services~~ Board is ~~heroby~~ designated as the supervisory board and the Department is
7 designated as the planning and coordinating agency responsible for the implementation and administration of the ~~Omnibus~~
8 ~~Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, as well as any other federal programs~~
9 for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and
10 control throughout the Commonwealth. ~~The Board shall continue the activities of and succeed the Council on Criminal Justice~~
11 ~~and the Department shall continue the activities of and succeed the Division of Justice and Crime Prevention.~~

12 **DRAFTING NOTE:** Technical corrections. The reference in this section to the Omnibus Crime Control and Safe Streets Act
13 of 1968 (P.L. 90-351, 82 Stat. 197), has been deleted as obsolete since the federal grant program operated under that Act
14 ceased to exist in 1980. The last sentence of this section has been deleted as obsolete.

15 ~~§ 9-172.~~ Plans and data from planning districts.

16 ~~Each planning district commission shall prepare and submit to the Department plans and data for strengthening and~~
17 ~~improving law enforcement and the administration of criminal justice within the planning district which shall be subject to the~~
18 ~~approval of the Department for purposes of determining the eligibility of such planning district commission and local units of~~
19 ~~government therein to participate in funds and grants available under the Omnibus Crime Control and Safe Streets Act of~~
20 ~~1968 (P.L. 90-351, 82 Stat. 197) as amended, or such state or other federal funds as may be made available for like~~
21 ~~purposes. Such plans and data shall be prepared in accordance with rules and regulations adopted and administered by the~~
22 ~~Department and shall be updated periodically, as the Department may require.~~

23 **DRAFTING NOTE:** Technical corrections. This section has been deleted as obsolete on the recommendation of the
24 Department of Criminal Justice Services. This section was enacted to facilitate compliance with a federal grant program that
25 ceased to exist in 1980.

26 ~~§ 9-174.4 9.1-110.~~ School Resource Officer Grants Program and Fund.

27 A. From ~~such the~~ funds as may be appropriated for such purpose and from ~~such the~~ gifts, donations, grants,
28 bequests, and other funds as may be received on its behalf, there is ~~heroby~~ established (i) the School Resource Officer
29 Grants Program, to be administered by the ~~Criminal Justice Services~~ Board, in consultation with the Board of Education, and
30 (ii) a special nonreverting fund within the state treasury known as the School Resource Officer Incentive Grants Fund,
31 hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining
32 in ~~such the~~ Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned
33 on such funds shall remain in the Fund and be credited to it.

34 Subject to the authority of the ~~Criminal Justice Services~~ Board to provide for its disbursement, the Fund shall be
35 disbursed to award matching grants to local law-enforcement agencies and local school boards that have established a
36 collaborative agreement to employ uniformed school resource officers in middle and high schools within the relevant school
37 division. ~~Such school~~ School resource officers shall be certified law-enforcement officers and shall be employed to help
38 ensure safety, to prevent truancy and violence in schools, and to enforce ~~schoold~~ school board rules and codes of student
39 conduct.

40 B. The ~~Criminal Justice Services~~ Board shall establish criteria for making grants from the Fund, including procedures
41 for determining the amount of a grant and the required local match. Any grant of general funds shall be matched by the
42 locality on the basis of the composite index of local ability to pay. The ~~Criminal Justice Services~~ Board may ~~issue~~ adopt
43 guidelines governing the Program and the employment and duties of the school resource officers as it deems necessary and
44 appropriate.

45 **DRAFTING NOTE:** Technical corrections only.

46 § 9.1-111. Advisory Committee on Juvenile Justice; membership; terms; compensation; duties.

47 A. There is created a permanent Advisory Committee on Juvenile Justice (the "Advisory Committee") that shall have
48 the responsibility for advising and assisting the Board, the Department, all agencies, departments, boards and institutions of
49 the Commonwealth, and units of local government, or combinations thereof, on matters related to the prevention and
50 treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth.

51 The Advisory Committee shall consist of no less than fifteen and no more than twenty-five members. The
52 membership of the Advisory Committee shall include persons who have training, experience or special knowledge concerning
53 the prevention and treatment of juvenile delinquency or the administration of juvenile justice as follows: the Commissioner of
54 the Department of Mental Health, Mental Retardation and Substance Abuse Services; the Commissioner of the Department of

1 Social Services; the Director of the Department of Juvenile Justice; and the Superintendent of Public Instruction; two
2 members of the General Assembly, appointed by the chairmen of the following legislative committees: one member of the
3 Senate Committee for Courts of Justice and one member of the House Committee on Health, Welfare and Institutions.

4 Legislative members shall serve terms coincident with their terms of office. All other members shall be residents of
5 the Commonwealth and be appointed by the Governor for a term of four years. However, no member shall serve beyond the
6 time when he holds the office or employment by reason of which he was initially eligible for appointment. The majority of the
7 Advisory Committee shall be private citizens and at least three members of the Advisory Committee, including two private
8 citizens, shall also be members of the Board.

9 The Advisory Committee shall elect its chairman from among its members.

10 B. Appointed members of the Advisory Committee shall not be eligible to serve for more than two consecutive full
11 terms. Three or more years within a four-year period shall be deemed a full term. Any vacancy on the Advisory Committee
12 shall be filled in the same manner as the original appointment, but for the unexpired term.

13 C. The Advisory Committee shall hold no less than four regular meetings a year. Subject to the requirements of this
14 subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any
15 five members of the Advisory Committee.

16 D. The Advisory Committee may adopt bylaws for its operation.

17 E. Members of the Advisory Committee shall not receive compensation, but shall be reimbursed for all reasonable
18 and necessary expenses incurred in the discharge of their duties.

19 F. The Advisory Committee shall have the following duties and responsibilities to:

20 1. Review the operation of the juvenile justice system in the Commonwealth, including facilities and programs, and
21 prepare appropriate reports;

22 2. Review statewide plans, conduct studies, and make recommendations on needs and priorities for the
23 development and improvement of the juvenile justice system in the Commonwealth; and

24 3. Advise on all matters related to the federal Juvenile Justice and Delinquency Prevention Act of 1974 (P. L. 93-
25 415, as amended), and recommend such actions on behalf of the Commonwealth as may seem desirable to secure benefits
26 of that or other federal programs for delinquency prevention of the administration of juvenile justice.

27 G. Upon request, each administrative entity or collegial body within the executive branch of the state government
28 shall cooperate with the Advisory Committee as it carries out its responsibilities.

29 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of subsections C, D, G, H, and I of existing §
30 9-168. Reference to the terms of initial appointees has been deleted as obsolete.

31 § 9.1-112. Committee on Training; membership.

32 There is created a permanent Committee on Training under the Board that shall be the policy-making body
33 responsible to the Board for effecting the provisions of subdivisions 2 through 16 of § 9.1-102. The Committee on Training
34 shall be composed of thirteen members of the Board as follows: the Superintendent of the Department of State Police; the
35 Director of the Department of Corrections; a member of the Private Security Services Advisory Board; the Executive
36 Secretary of the Supreme Court of Virginia; two sheriffs representing the Virginia State Sheriffs Association; two
37 representatives of the Chiefs of Police Association; the attorney for the Commonwealth representing the Association for
38 Attorneys for the Commonwealth; a representative of the Virginia Municipal League; a representative of the Virginia
39 Association of Counties; a regional jail superintendent representing the Virginia Association of Regional Jails; and one
40 member designated by the chairman of the Board from among the other appointments made by the Governor.

41 The Committee on Training shall annually elect its chairman from among its members.

42 **DRAFTING NOTE:** Technical corrections. This proposed section is subsection B of existing § 9-168.

43 § 9-179 9.1-113. ~~Law-enforcement~~ Compliance with minimum training standards by officers serving on July 1, 1971;
44 officers appointed under § 56-353 prior to July 1, 1982.

45 The provisions of this chapter shall not be construed to require (i) law-enforcement officers serving under permanent
46 appointment on July 1, 1971, ~~nor require~~ or (ii) officers serving under permanent appointment under the provisions of § 56-
47 353 appointed prior to July 1, 1982, to meet the compulsory minimum training standards provided for in subdivision 2 of §-9-
48 470 9.1-102. Nor shall failure of any such officer to meet such standards make him ineligible for any promotional examination
49 for which he is otherwise eligible, ~~except that~~. However, any law-enforcement officer designated under the provisions of §
50 53.1-120 to provide courthouse and courtroom security shall be required to meet the standards provided under subdivision 7
51 of §-9-470 9.1-102. Any full-time deputy sheriff who is a law-enforcement officer and who is exempted from the compulsory
52 minimum training standards under this section shall be eligible for the minimum salary established pursuant to Article 3 (§
53 15.2-1609 et seq.) of Chapter 16 of Title 15.2.

54 **DRAFTING NOTE:** Technical corrections only.

2 §-9-180 9.1-114. Compliance with minimum training standards by officers employed after July 1, 1971, by officers
appointed under § 56-353 after July 1, 1982, and by part-time officers.

3 Every full-time law-enforcement officer employed after July 1, 1971, officers appointed under the provisions of § 56-
4 353 after July 1, 1982, and every part-time law-enforcement officer employed after July 1, 1989, shall comply with the
5 compulsory minimum training standards established by the Board within a period of time fixed by the Board pursuant to
6 Chapter 14-14 in accordance with the Administrative Process Act (§-9-6-14:1- 2.2-4000 et seq.) of Title 9, except that,
7 However, any part-time law-enforcement officer employed for eighty, or fewer, compensated hours in a calendar year, or any
8 noncompensated auxiliary deputy sheriff, or noncompensated auxiliary police officer who carries a firearm in the course of
9 such his employment shall be required to have completed basic firearms training and received ongoing in-service firearms
10 training, as defined by the Board. The Board shall have the power to may require law-enforcement agencies of the
11 Commonwealth and its political subdivisions to submit rosters of their personnel and pertinent data with regard to the training
12 status of such personnel.

13 **DRAFTING NOTE:** Technical corrections only.

14 §-9-181 9.1-115. Forfeiture of office for failing to meet training standards; termination of salary and benefits;
15 extension of term.

16 A. Every person required to comply with the training standards promulgated-adopted by the Board, excluding private
17 security services business personnel, who fails to comply with the standards within the time limits established by the rules
18 and regulations promulgated-adopted by the Board shall forthwith forfeit his office, upon receipt of notice, as provided in
19 subsection B hereof. Such forfeiture shall create a vacancy in the office and all pay and allowances shall cease.

20 B. Notice shall be by certified mail, in a form approved by the Board, to the officer failing to comply and the chief
21 administrative officer of the agency employing such-the officer. Notice shall be mailed to the State Compensation Board, if
22 approval of that Board of the necessity of his office or compensation is required by law.

23 C. If the necessity for the officer or compensation of such-the officer is required by law to be approved by the State
24 Compensation Board, that Board, upon receipt of notice as provided in subsection B hereof, shall notify the Comptroller, who
25 shall cause payment of his compensation to cease forthwith-as of the date of receipt of the notice by the State Compensation
26 Board of the notice.

27 D. It shall be the duty of the chief administrative officer of any agency employing a person who fails to meet such-the
28 training standards to enforce the provisions of §-9-180 9.1-114 and this section. Willful failure to do so shall constitute
29 misfeasance of-in office, and, in addition, upon conviction, shall constitute a Class 3 misdemeanor.

30 **DRAFTING NOTE:** Technical corrections only.

31 §-9-173 9.1-116. Exemptions of certain persons from certain training requirements.

32 The Director of the Department, with the approval of the Board, may exempt a chief of police or any law-enforcement
33 officer or any courthouse and courtroom security officer, jailer jail officer, dispatcher, process server, or custodial officer or
34 corrections officer of the Commonwealth or any political subdivision who has had previous experience and training as a law-
35 enforcement officer, courthouse and courtroom security officer, jailer jail officer, dispatcher, process server or custodial officer
36 or corrections officer with any law-enforcement or custodial agency, from the mandatory attendance of any or all courses
37 which are required for the successful completion of the compulsory minimum training standards established by the Board.

38 The exemption authorized by this section shall be available to all law-enforcement officers, courthouse and
39 courtroom security officers, jailere jail officer, dispatchers, process servers and custodial officers, and corrections officers,
40 regardless of any officer's date of initial employment, and shall entitle such-the officer when exempted from mandatory
41 attendance to be deemed in compliance with such-the compulsory minimum training standards and eligible for the minimum
42 salary established pursuant to Article 9 (§ 14.1-68 et seq.) of Chapter 1 of Title 14.4 Article 3 (§ 15.2-1609 et seq.) of Chapter
43 16 of Title 15.2, provided that such-the officer is otherwise qualified.

44 **DRAFTING NOTE:** Technical corrections. On the recommendation of Department of Criminal Justice Services, the term
45 "jailer" has been replaced with "jail officer".

46 Article 2.

47 Division of Forensic Science.

48 §-9-196.1 9.1-117. Division of Forensic Science; duties.

49 A. There is hereby established within the Department of Criminal Justice Services, a Division of Forensic Science,
50 which heretofore existed as a division within the Department of General Services. The Division (the "Division"), which shall
51 be headed by a Director. It shall be the responsibility of the The Division to shall provide forensic laboratory services upon
request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and local
medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant responsible for law

1 enforcement in the jurisdiction served by him; any local fire department; or any state agency in any criminal matter. T
2 Division may provide such services to any federal investigatory agency within available resources.

3 B. The Division shall provide:

4 1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and provide
5 laboratory services, research, and scientific investigations for agencies of the Commonwealth as needed. In addition, the
6 Division shall establish; and

7 2. Establish a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2
8 to determine identification characteristics specific to an individual.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 9-196.5~~ 9.1-118. Division of Forensic Science to be isolated; security and protection of evidence.

11 ~~A. The Division of Forensic Science shall be isolated located within the Department of Criminal Justice Services as~~
12 ~~much as necessary so as to ensure the protection of evidence and to ensure that its services are performed by skilled~~
13 ~~professionals who are qualified to testify in court regarding such services.~~

14 B. The Division shall provide for security and protection of evidence, official samples, and all other samples
15 submitted to the Division for analysis or examination.

16 C. The Division shall ensure that its services are performed by skilled professionals who are qualified to testify in
17 court regarding such services.

18 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
19 A and C are § 9-196.5 and subsection B is § 9-196.6.

20 ~~§ 9-196.6. Security and protection of evidence, etc.~~

21 ~~The Division shall provide for security and protection of evidence, official samples, and all other samples submitted~~
22 ~~to the Division for analysis or examination.~~

23 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 9.1-118 supra.

24 ~~§ 9-196.4~~ 9.1-119. Forensic Science Academy.

25 ~~The Forensic Science Academy, which previously operated as a function of the Department of General Services,~~
26 ~~hereby transferred to within the Division of Forensic Science within the Department of Criminal Justice Services. It, shall be~~
27 ~~the function of the Academy to provide advanced training to law-enforcement agencies in the location, collection, and~~
28 ~~preservation of evidence.~~

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§ 9-196.7~~ 9.1-120. Special conservators of the peace.

31 ~~Upon application of the Director of the Division of Forensic Science, the Circuit Court of the City of Richmond may~~
32 ~~appoint security personnel employed by the Division as special conservators of the peace, who shall exercise the powers and~~
33 ~~functions of conservators of the peace throughout the Commonwealth for the time specified in the order of appointment, while~~
34 ~~in the performance of their official duties as security personnel. Such appointments Appointments as special conservators of~~
35 ~~the peace shall terminate upon the order of the Division or upon the termination of employment as security personnel of the~~
36 ~~Division. The circuit court shall be notified forthwith promptly by the Division whenever an appointment is terminated.~~

37 **DRAFTING NOTE:** Technical corrections only.

38 ~~§ 9-196.11~~ 9.1-121. Rights of accused person or his attorney to results of investigation or to investigation.

39 ~~Upon the request of any person accused of a crime or upon the request of an accused person's attorney, the~~
40 ~~Division of Forensic Science or the Division of Consolidated Laboratory Services shall furnish to the accused or his attorney~~
41 ~~the results of any investigation which has been conducted by it and which is related in any way to a crime for which such the~~
42 ~~person is accused. In any case in which an attorney of record for a person accused of violation of any criminal law of the~~
43 ~~Commonwealth, or the accused, may desire a scientific investigation, he shall, by motion filed before the court in which the~~
44 ~~charge is pending, certify that in good faith he believes that a scientific investigation may be relevant to the criminal charge.~~
45 ~~The motion shall be heard ex parte as soon as practicable, and the court shall, after a hearing upon the motion and being~~
46 ~~satisfied as to the correctness of the certification, order that the same be performed by the Division of Forensic Science or the~~
47 ~~Division of Consolidated Laboratory Services and shall prescribe in its order the method of custody, transfer, and return of~~
48 ~~evidence submitted for scientific investigation. Upon the request of the attorney for the Commonwealth of the jurisdiction in~~
49 ~~which the charge is pending, he shall be furnished the results of the scientific investigation.~~

50 **DRAFTING NOTE:** Technical corrections only.

51 ~~§ 9-196.12~~ 9.1-122. Reexamination by independent experts.

1 Independent experts employed by (i) an attorney of record for a person accused of violation of any criminal law of
2 the Commonwealth, or (ii) the accused, for the purpose of reexamination of materials previously examined in any laboratory
3 of the Division of Forensic Science or the former Bureau of Forensic Science, shall conduct their analyses or examinations
4 independently of the facilities, equipment, or supplies of the Division.

5 **DRAFTING NOTE:** Technical corrections only.

6 ~~§ 9-106.8~~ 9.1-123. Disposal of certain hazardous materials.

7 Any material which is seized in any criminal investigation and which is deemed to be hazardous to health and safety,
8 may be disposed of upon written application of the Division of Forensic Science to the attorney for the Commonwealth in the
9 city or county where the material is seized or where any criminal prosecution in which ~~such the~~ material is proposed to be
10 evidence is pending. Upon receipt thereof, the attorney for the Commonwealth shall file the application in the circuit court of
11 such county or city. A sworn analysis report signed by a person designated by the Director of the Division of Forensic Science
12 shall accompany the application for disposal and shall clearly identify and designate the material to be disposed of. The
13 application shall state the nature of the hazardous materials, the quantity thereof, the location where seized, the person or
14 persons from whom the materials were seized, and the manner whereby ~~such the~~ materials shall be destroyed.

15 When the ownership of the hazardous material is known, notice shall be given to the owner thereof at least three
16 days prior to any hearing relating to the destruction, and, if any criminal charge is pending in any court as a result of ~~such the~~
17 seizure, ~~such the~~ notice shall be given to the accused if other than the owner.

18 Upon receipt of the analysis report and the application, the court may order the destruction of all, or a part of, ~~such~~
19 ~~the material; however,~~ However, a sufficient and representative quantity of ~~such the~~ material shall be retained to permit an
20 independent analysis when a criminal prosecution may result from ~~such the~~ seizure. A return under oath, reporting the time,
21 place, and manner of destruction, shall be made to the courts. Copies of the analysis report, application, order, and return
22 shall be made a part of the record of any criminal prosecution. The sworn analysis report shall be admissible as evidence to
23 the same extent as the disposed-of material would have been admissible.

24 **DRAFTING NOTE:** Technical corrections only.

25 ~~§ 9-106.9~~ 9.1-124. Disposal of certain other property after analysis.

26 Personal property, including drugs, not ~~subject to be~~ disposed of under ~~§ 9-106.8~~ 9.1-123, which has been submitted
27 to the Division of Forensic Science or the former Bureau of Forensic Science for analysis or examination and which has not
28 been reclaimed by the agency submitting ~~such the~~ property for analysis or examination, may be disposed of by the Division in
29 accordance with this section if, after the expiration of 120 days after the receipt by the Division of the property, the Director
30 notifies the circuit court of the county or city from which the property was taken, in writing, that the analysis or examination
31 has been completed, and a report submitted to the agency that the property has not been reclaimed by the agency submitting
32 it and that the Division proposes to dispose of ~~such the~~ property. The notice shall state the nature of the property, the quantity
33 thereof, the location where seized, the name of the accused, if known, and the proposed method of disposing of the property.

34 When the ownership of the property is known, a copy of ~~such the~~ notice shall be sent simultaneously with the notice
35 to the court to the owner, or, if any criminal charge is pending in any court relating to the property, the copy shall be sent to
36 the accused at his last known address. Notice shall be by certified mail. The court, within thirty days after receipt of the notice,
37 may direct that the property be disposed of by the Division, by an alternative method designed to preserve the property, at the
38 expense of the agency submitting the property to the Division. If the court does not so direct within ~~such the~~ thirty-day period,
39 then the Division may dispose of the property by the method set out in the notice. Copies of the analysis report and notice
40 shall be made a part of the record of any criminal prosecution. The report, if sworn to, shall be admissible as evidence to the
41 same extent as the disposed-of property would have been admissible.

42 **DRAFTING NOTE:** Technical corrections only.

43 ~~§ 9-106.10~~ 9.1-125. Disposal of property held by Division for more than fifteen years.

44 Notwithstanding the provisions of ~~§§ 9-106.8~~ 9.1-123 and ~~9-106.9~~ 9.1-124, the Division of Forensic Science may file
45 an application in the Circuit Court of the City of Richmond seeking an order authorizing the disposal of all personal property,
46 including drugs, received by the Division more than fifteen years prior to the filing of the application. The application, under
47 oath, shall list each item of property, the date of submission to the Division, the agency or individual submitting the property,
48 and the proposed method of disposal. The application shall also state that written notice by first-class mail was given to each
49 agency or individual submitting property listed at least thirty days prior to the application, and that no agency or individual
50 objected to the disposal. A return, under oath, reporting the time, place, and manner of disposal, shall be made to the court.

51 **DRAFTING NOTE:** Technical corrections only.

1 Article 3.

2 Criminal Justice Information System.

3 ~~§ 9-184~~ 9.1-126. Application and construction of article.

4 A. This article ~~applies~~ shall apply to original or copied criminal history record information, maintained by a criminal
5 justice agency of (i) the Commonwealth of Virginia or its political subdivisions, and (ii) the United States or another state or its
6 political subdivisions which exchange such information with an agency covered in clause (i), but only to the extent of that
7 exchange.

8 B. The provisions of this article ~~do~~ shall not apply to original or copied (i) records of entry, such as police blotters,
9 maintained by a criminal justice agency on a chronological basis and permitted to be made public, if such records are not
10 indexed or accessible by name, (ii) court records of public criminal proceedings, including opinions and published
11 compilations thereof, (iii) records of traffic offenses disseminated to or maintained by the Department of Motor Vehicles for the
12 purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses, (iv) statistical
13 or analytical records or reports in which individuals are not identified and from which their identities cannot be ascertained, (v)
14 announcements of executive clemency, pardons, or removals of political disabilities, (vi) posters, announcements, or lists for
15 identifying or apprehending fugitives or wanted persons, (vii) criminal justice intelligence information, or (viii) criminal justice
16 investigative information.

17 C. Nothing contained in this article shall be construed as prohibiting a criminal justice agency from disclosing to the
18 public factual information concerning the status of an investigation, the apprehension, arrest, release, or prosecution of an
19 individual, the adjudication of charges, or the correctional status of an individual, which is related to the offense for which the
20 individual is currently within the criminal justice system.

21 **DRAFTING NOTE:** Technical corrections only.

22 ~~§ 9-185~~ 9.1-127. Establishment of statewide criminal justice information system; duties of Board generally;
23 assistance of other agencies; relationship to Department of State Police.

24 A. The Board shall provide for the coordination of the operation of a statewide comprehensive criminal justice
25 information system for the exchange of criminal history record information among the criminal justice agencies of the State
26 Commonwealth and its political subdivisions. The Board shall develop standards and goals for such system, define the
27 requirements of such system, define system objectives, recommend development priorities and plans, review development
28 efforts, coordinate the needs and interests of the criminal justice community, outline agency responsibilities, appoint ad hoc
29 advisory committees, and provide for the participation of the statewide comprehensive criminal justice information system in
30 interstate criminal justice systems.

31 B. The Board may request technical assistance of any state agency, board, or other body and such state entities
32 shall render such assistance as is reasonably required.

33 C. The Department of State Police shall be the control terminal agency for the Commonwealth and perform all
34 functions required of a control terminal agency by the regulations of the National Crime Information Center. Notwithstanding
35 any other provision to the contrary in this chapter, the Central Criminal Records Exchange and the Department of State Police
36 shall remain the central repository for criminal history record information in the Commonwealth, and the Department shall
37 continue to be responsible for the management and operation of such exchange.

38 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
39 A and B are § 9-185 and subsection C is subdivision 24 of § 9-170.

40 ~~§ 9-187. Information to be disseminated only in accordance with § 10.2-389.~~

41 ~~Criminal history record information shall be disseminated, whether directly or through an intermediary, only in~~
42 ~~accordance with § 10.2-389.~~

43 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection A in proposed § 9.1-128 infra.

44 ~~§ 9-188~~ 9.1-128. Regulations-Dissemination of criminal history record information; Board to adopt regulations and
45 procedures.

46 A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in
47 accordance with § 19.2-389.

48 AB. The Board shall ~~issue~~ adopt regulations and procedures for the interstate dissemination of criminal history
49 record information by which criminal justice agencies of the Commonwealth shall ~~insure~~ ensure that the limitations on
50 dissemination of criminal history record information set forth in § 19.2-389 are accepted by recipients and will remain
51 operative in the event of further dissemination.

52 BC. The Board shall ~~issue~~ adopt regulations and procedures for the validation of an interstate recipient's right to
53 obtain criminal history record information from criminal justice agencies of the Commonwealth.

2 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections; subsection A is § 9-187 and subsections B and C are § 9-188.

3 ~~§ 9-188~~ 9.1-129. Participation of state and local agencies in interstate system; access to ~~such~~ system limited.

4 A. The Board shall regulate participation of state and local agencies in any interstate system for the exchange of
5 criminal history record information and shall be responsible for ~~assuring~~ ensuring the consistency of such participation with
6 the terms and purposes of this article. The Board shall have no authority to compel any agency to participate in any such
7 interstate system.

8 B. Direct access to any such system shall be limited to ~~such the~~ criminal justice agencies ~~as are~~ expressly
9 designated for that purpose by the Board.

10 **DRAFTING NOTE:** Technical corrections only.

11 ~~§ 9-184~~ 9.1-130. Procedures to be adopted by agencies maintaining criminal justice information systems.

12 Each criminal justice agency maintaining and operating a criminal justice information system shall adopt procedures
13 reasonably designed to ~~insure~~ ensure:

14 A₁. The physical security of the system and the prevention of unauthorized disclosure of the information in the
15 system;

16 B₂. The timeliness and accuracy of information in the system ~~collected after November 1, 1976~~;

17 C₃. That all criminal justice agencies to which criminal offender record information is disseminated or from which it is
18 collected are currently and accurately informed of any correction, deletion, or revision of such information;

19 D₄. Prompt purging or sealing of criminal offender record information when required by state or federal statute,
20 regulation, or court order;

21 E₅. Use or dissemination of criminal offender record information by criminal justice agency personnel only after it
22 has been determined to be the most accurate and complete information available to the criminal justice agency.

23 **DRAFTING NOTE:** Technical corrections only.

~~§ 9-186~~ 9.1-131. Annual audits.

26 The Board shall ensure that annual audits are conducted of a representative sample of state and local criminal
27 justice agencies to ensure compliance with this article and ~~the Board regulations of the Board~~. The Board shall ~~issue~~ adopt
28 such regulations as may be necessary for the conduct of audits, the retention of records to facilitate such audits, the
determination of necessary corrective actions, and the reporting of corrective actions taken.

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§ 9-192~~ 9.1-132. Individual's right of access to and review and correction of information.

31 A. Any individual who believes that criminal history record information is being maintained about him by the Central
32 Criminal Records Exchange (the "Exchange"), or by the arresting law-enforcement agency in the case of offenses not
33 required to be reported to ~~such the~~ Exchange, shall have the right to inspect a copy of ~~such his~~ criminal history record
34 information at the Exchange or the arresting law-enforcement agency, respectively, for the purpose of ascertaining the
35 completeness and accuracy of ~~such the~~ information. The individual's right to access and review shall not extend to any
36 information or data other than that defined in subdivision 4 of ~~§ 9-169~~ 9.1-101.

37 B. The Board shall ~~issue~~ adopt regulations with respect to an individual's right to access and review criminal history
38 record information about himself reported to the ~~Central Criminal Records Exchange~~ or, if not reported to the Exchange,
39 maintained by the arresting law-enforcement agency. ~~Such The~~ regulations shall provide for (i) public notice of the right of
40 access; (ii) access to criminal history record information by an individual or an attorney-at-law acting for an individual; (iii) the
41 submission of identification required; (iv) the places and times for review; (v) review of Virginia records by individuals located
42 in other states; (vi) assistance in understanding the record; (vii) obtaining a copy for purposes of initiating a challenge to the
43 record; (viii) procedures for investigation of alleged incompleteness or inaccuracy; (ix) completion or correction of records if
44 indicated; and (x) notification of the individuals and agencies to whom an inaccurate or incomplete record has been
45 disseminated.

46 C. If an individual believes information maintained about him ~~to be is~~ inaccurate or incomplete, he may request the
47 agency having custody or control of the records to purge, modify, or supplement them. Should the agency decline to so act,
48 or should the individual believe the agency's decision to be otherwise unsatisfactory, the individual may make written request,
49 in writing, for review by the Board. The Board or its designee shall, in each case in which it finds prima facie basis for a
50 complaint, conduct a hearing at which the individual may appear with counsel, present evidence, and examine and cross-
examine witnesses. ~~Written The Board shall issue written findings and conclusions shall be issued.~~ Should the record in
question be found to be inaccurate or incomplete, the criminal justice agency ~~or agencies maintaining such the~~ information
shall purge, modify, or supplement it in accordance with the findings and conclusions of the Board. Notification of purging,

1 modification, or supplementation of criminal history record information shall be promptly made by the criminal justice agency
2 maintaining ~~such the~~ previously inaccurate information to any individuals or agencies to which the information in question was
3 communicated, as well as to the individual ~~whose records have been ordered so altered~~ who is the subject of the records.

4 D. Criminal justice agencies shall maintain records of all agencies to whom criminal history record information ~~was~~
5 has been disseminated ~~and~~, the date upon which ~~such the~~ information was disseminated, and such other record matter for
6 the number of years required by ~~rules and~~ regulations of the Board.

7 E. Any individual or agency aggrieved by any order or decision of the Board may appeal ~~such the~~ order or decision
8 in accordance with the ~~provisions of the~~ Administrative Process Act (~~§ 9-6.14:1-2.2-4000~~ et seq.).

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 9-493~~ 9.1-133. ~~Information~~ Certain information not subject to review ~~and or~~ correction ~~of information.~~

11 A. ~~Investigative Background checks for security clearances and investigative~~ information not connected with a
12 criminal prosecution or litigation including investigations of rule infractions in correctional institutions, ~~and background checks~~
13 ~~for security clearances~~ shall not be subject to review ~~and or~~ correction ~~of information~~ by data subjects.

14 B. Correctional information about an offender including counselor reports, diagnostic summaries and other sensitive
15 information not explicitly classified as criminal history record information shall not be subject to review ~~and or~~ correction ~~of~~
16 ~~information~~ by data subjects.

17 **DRAFTING NOTE:** Technical corrections only.

18 ~~§ 9-490~~ 9.1-134. Sealing of criminal history record information.

19 A. The Board shall adopt procedures reasonably designed to (i) to insure ensure prompt sealing or purging of
20 criminal history record information when required by state or federal ~~statute~~ law, regulation or court order, and (ii) ~~to permit~~
21 opening of sealed information under conditions authorized by law.

22 **DRAFTING NOTE:** Technical corrections only.

23 ~~§ 9-494~~ 9.1-135. Civil remedies for violation of this chapter or Chapter 23 of Title 19.2.

24 A. Any person may institute a civil action in the circuit court of the jurisdiction in which the Board has its
25 administrative headquarters, or in the jurisdiction in which any violation is alleged to have occurred, ~~for:~~

26 1. For actual damages resulting from violation of this article or to restrain any such violation ~~thereof~~, or both.

27 ~~B. Any person may bring an action in the circuit court of the jurisdiction in which the Board has its administrative~~
28 ~~headquarters, or in the jurisdiction in which any violation is alleged to have occurred,~~

29 2. To obtain appropriate equitable relief against any person who has engaged, is engaged, or is about to engage in
30 any acts or practices in violation of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, this chapter or rules or regulations of the
31 Board ~~to obtain appropriate, equitable relief.~~

32 ~~GB.~~ This section shall not be construed as ~~constituting~~ a waiver of the defense of sovereign immunity.

33 **DRAFTING NOTE:** Technical corrections only.

34 ~~§ 9-495~~ 9.1-136. Criminal penalty for violation.

35 Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information
36 under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record
37 information to any agency or person in violation of this article or Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, shall be guilty of
38 a Class 2 misdemeanor.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§ 9-496~~ 9.1-137. Article to control over other laws; exceptions; ~~application of Chapter 1.1:1 of this title.~~

41 A. In the event any provisions of this article ~~shall~~ conflict with other provisions of law, the provision of this article shall
42 control, except as provided in subsection B ~~of this section.~~

43 B. Notwithstanding the provisions of subsection A ~~of this section~~, this article shall not alter, amend, or supersede any
44 provisions of the Code of Virginia relating to the collection, storage, dissemination, or use of juvenile records of juveniles.

45 ~~C. Insofar as it is consistent with this article, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of this title shall control.~~

46 **DRAFTING NOTE:** Technical corrections. Subsection C has been deleted because it is in conflict with subsection A.

1 Article 4.

2 Private Security Services Businesses.

3 § ~~9-183.1~~ 9.1-138. Definitions.

4 ~~As~~ In addition to the definitions set forth in § 9.1-101, as used in this ~~chapter~~ article, unless the context requires a
5 different meaning:

6 "Alarm respondent" means ~~a natural person~~ an individual who responds to the signal of an alarm for the purpose of
7 detecting an intrusion of the home, business or property of the end user.

8 "Armed" means a private security registrant who carries or has immediate access to a firearm in the performance of
9 his duties.

10 "Armed security officer" means a security officer, ~~as defined below~~, who carries or has immediate access to a firearm
11 in the performance of his duties.

12 "Armored car personnel" means persons who transport or offer to transport under armed security from one place to
13 another, money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of
14 security and certainty of delivery.

15 ~~"Board" means the Criminal Justice Services Board or any successor board or agency.~~

16 "Business advertising material" means display advertisements in telephone directories, letterhead, business cards,
17 local newspaper advertising and contracts.

18 "Central station dispatcher" means ~~a natural person~~ an individual who monitors burglar alarm signal devices, burglar
19 alarms or any other electrical, mechanical or electronic device used (i) to prevent or detect burglary, theft, shoplifting,
20 pilferage or similar losses; ~~used (ii)~~ to prevent or detect intrusion; or ~~used (iii)~~ primarily to summon aid for other emergencies.

21 "Certification" means the method of regulation indicating that qualified persons have met the minimum requirements
22 as private security services training schools, private security services instructors, compliance agents, unarmed security
23 officers, electronic security employees, or electronic security technician's assistants.

24 "Compliance agent" means ~~a natural person~~ an individual who owns or is employed by a licensed private security
25 services business to ensure the compliance of the private security services business with this title.

26 "Courier" means any armed person who transports or offers to transport from one place to another documents or
27 other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious services.

28 ~~"Department" means the Department of Criminal Justice Services or any successor agency.~~

29 "Electronic security business" means any person who engages in the business of or undertakes to (i) install, service,
30 maintain, design or consult in the design of any electronic security equipment to an end user; (ii) respond to or cause a
31 response to electronic security equipment for an end user; or (iii) have access to confidential information concerning the
32 design, extent, status, password, contact list, or location of an end user's electronic security equipment.

33 "Electronic security employee" means ~~a natural person~~ an individual who is employed by an electronic security
34 business in any capacity which may give him access to information concerning the design, extent, status, password, contact
35 list, or location of an end user's electronic security equipment.

36 "Electronic security equipment" means electronic or mechanical alarm signaling devices including burglar alarms or
37 holdup alarms or cameras used to detect intrusions, concealment or theft. However, "Electronic security equipment" shall not
38 include tags, labels, and other devices which that are attached or affixed to items offered for sale, library books, and other
39 protected articles as part of an electronic article surveillance and theft detection and deterrence system.

40 ~~"Electronic security equipment" shall not include tags, labels, and other devices which are attached or affixed to~~
41 ~~items offered for sale, library books, and other protected articles as part of an electronic article surveillance and theft~~
42 ~~detection and deterrence system.~~

43 "Electronic security sales representative" means ~~a natural person~~ an individual who sells electronic security
44 equipment on behalf of an electronic security business to the end user.

45 "Electronic security technician" means ~~a natural person~~ an individual who installs, services, maintains or repairs
46 electronic security equipment.

47 "Electronic security technician's assistant" means ~~a natural person~~ an individual who works as a laborer under the
48 supervision of the electronic security technician in the course of his normal duties, but who may not make connections to any
49 electronic security equipment.

50 "End user" means any person who purchases or leases electronic security equipment for use in that person's home
51 or business.

52 "Firearms training verification" means the verification of successful completion of either initial or retraining
53 requirements for handgun or shotgun training, or both.

1 "License number" means the official number issued to a private security services business licensed by the
2 Department.

3 "~~Person~~" means ~~any individual, group of individuals, firm, company, corporation, partnership, business, trust,~~
4 ~~association, or other legal entity.~~

5 "Personal protection specialist" means any ~~natural person~~ individual who engages in the duties of providing close
6 protection from bodily harm to any person.

7 "Private investigator" means any ~~natural person~~ individual who engages in the business of, or accepts employment
8 to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition, or recovery of stolen
9 property; (iii) the cause of accidents, fires, damages, or injuries to persons or to property; or (iv) evidence to be used before
10 any court, board, officer, or investigative committee.

11 "Private security services business" means any person engaged in the business of providing, or who undertakes to
12 provide, armored car personnel, security officers, personal protection specialists, private investigators, couriers, security
13 canine handlers, security canine teams, alarm respondents, central station dispatchers, electronic security employees,
14 electronic security sales representatives or electronic security technicians and their assistants to another person under
15 contract, express or implied.

16 "Private security services instructor" means any ~~natural person~~ individual certified by the Department to provide
17 mandated instruction in private security subjects for a certified private security services training school.

18 "Private security services registrant" means any qualified ~~natural person~~ individual who has met the requirements
19 under this article to perform the duties of alarm respondent, armored car personnel, central station dispatcher, courier,
20 electronic security sales representative, electronic security technician, personal protection specialist, private investigator,
21 security canine handler, or armed security officer.

22 "Private security services training school" means any person certified by the Department to provide instruction in
23 private security subjects for the training of private security services business personnel in accordance with this article.

24 "Registration" means a method of regulation whereby certain personnel employed by a private security services
25 business are required to ~~obtain a registration from~~ register with the Department pursuant to this article.

26 "Security canine" means a dog that has attended, completed, and been certified as a security canine by a certified
27 security canine handler instructor in accordance with approved Department procedures and certification guidelines. "Security
28 canines" shall not ~~mean include~~ detector dogs.

29 "Security canine handler" means any ~~natural person~~ individual who utilizes his security canine in the performance of
30 private security duties.

31 "Security canine team" means the security canine handler and his security canine performing private security duties.

32 "Security officer" means any ~~natural person~~ individual employed by a private security services business to (i)
33 safeguard and protect persons and property or (ii) prevent theft, loss, or concealment of any tangible or intangible personal
34 property on the premises contracted to protect.

35 "Supervisor" means any ~~natural person~~ individual who directly or indirectly supervises registered or certified private
36 security services business personnel.

37 "Unarmed security officer" means a security officer who does not carry or have immediate access to a firearm in the
38 performance of his duties.

39 **DRAFTING NOTE:** Technical corrections. The term "natural person" has been replaced with "an individual" for clarification.
40 Also, the definition of "person" has been deleted here because that term is defined in § 1-13.19 of Title 1; and the definitions
41 of "Board" and "Department" have been deleted as duplicative of § 9.1-101, the definition section for this chapter.

42 ~~§ 9-183.3~~ 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses.

43 A. No person shall engage in the private security services business or solicit private security business in the
44 Commonwealth without having obtained a license from the Department. No person shall be issued a private security services
45 business license until a compliance agent is designated in writing on forms provided by the Department. The compliance
46 agent shall ~~assure~~ ensure the compliance of the private security services business with this article and shall meet the
47 qualifications and perform the duties required by the regulations ~~promulgated~~ adopted by the Board. A compliance agent shall
48 have either a minimum of (i) three years of managerial or supervisory experience in a private security services business; with
49 a federal, state or local law-enforcement agency; or in a related field or (ii) five years of experience in a private security
50 services business; with a federal, state or local law-enforcement agency; or in a related field.

51 B. No person shall act as private security services training school or solicit students for private security training in the
52 Commonwealth without being certified by the Department. No person shall be issued a private security services training
53 school certification until a school director is designated in writing on forms provided by the Department. The school director
54 shall ensure the compliance of ~~each the~~ school with the provisions of this article and shall meet the qualifications and perform
55 the duties required by the regulations ~~promulgated~~ adopted by the Board.

1 C. No person shall be employed by a licensed private security services business in the Commonwealth as armored
2 car personnel, courier, armed security officer, security canine handler, private investigator, personal protection specialist,
3 alarm respondent, central station dispatcher, electronic security sales representative or electronic security technician without
4 possessing a valid registration issued by the Department, except as provided in this article.

5 D. A temporary license may be issued in accordance with Board regulations for the purpose of awaiting the results of
6 the state and national fingerprint search. However, no person shall be issued a temporary license until (i) he has designated a
7 compliance agent who has complied with the compulsory minimum training standards established by the Board pursuant to
8 subsection A of ~~§ 9-482~~ 9.1-141 for compliance agents, (ii) each principal of the business has submitted his fingerprints for a
9 National Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other requirements
10 of this article and ~~the Board regulations of the Board~~.

11 E. A temporary registration may be issued in accordance with Board regulations for the purpose of awaiting the
12 results of the state and national fingerprint search. However, no person shall be issued a temporary registration until he has
13 (i) complied with, or been exempted from the compulsory minimum training standards established by the Board, pursuant to
14 subsection A of ~~§ 9-482~~ 9.1-141, for armored car personnel, couriers, armed security officers, security canine handlers,
15 private investigators, personal protection specialist, alarm respondents, central station dispatchers, electronic security sales
16 representatives or electronic security technicians, (ii) submitted his fingerprints to be used for the conduct of a National
17 Criminal Records search and a Virginia Criminal History Records search, and (iii) met all other requirements of this article and
18 ~~the Board regulations of the Board~~.

19 F. A temporary certification as a private security instructor or private security training school may be issued in
20 accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search.
21 However, no person shall be issued a temporary certification as a private security services instructor until he has (i) met the
22 education, training and experience requirements established by the Board and (ii) submitted his fingerprints to be used for the
23 conduct of a National Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a
24 temporary certification as a private security services training school until (a) he has designated a training director, (b) each
25 principal of the training school has submitted his fingerprints to be used for the conduct of a National Criminal Records search
26 and a Virginia Criminal History Records search, and (c) he has met all other requirements of this article and ~~the Board~~
27 ~~regulations of the Board~~.

28 G. A licensed private security services business in the Commonwealth shall not employ as an unarmed security
29 officer, electronic security technician's assistant, unarmed alarm respondent, central station dispatcher, electronic security
30 sales representative, or electronic security technician, any person who has not complied with, or been exempted from, the
31 compulsory minimum training standards established by the Board, pursuant to subsection A of ~~§ 9-482~~ 9.1-141, except that
32 such person may be so employed for not more than ninety days while completing compulsory minimum training standards.

33 H. No person shall be employed as an electronic security employee, electronic security technician's assistant,
34 unarmed alarm respondent, central station dispatcher, electronic security sales representative, electronic security technician
35 or supervisor until he has submitted his fingerprints to the Department to be used for the conduct of a National Criminal
36 Records search and a Virginia Criminal History Records search. The provisions of this subsection shall not apply to an out-of-
37 state central station dispatcher meeting the requirements of subdivision 19 of ~~§ 9-483-2~~ 9.1-140.

38 I. The compliance agent of each licensed private security services business in the Commonwealth shall maintain
39 documentary evidence that each private security registrant and certified employee employed by his private security services
40 business has complied with, or been exempted from, the compulsory minimum training standards required by the Board and
41 that an investigation to determine suitability of each unarmed security officer employee has been conducted, except that any
42 such unarmed security officer, upon initiating a request for such investigation under the provisions of subdivision 11 of
43 subsection A of § 19.2-389, may be employed for up to thirty days pending completion of such investigation.

44 J. No person with a criminal record of a misdemeanor involving moral turpitude or any felony shall be (i) employed as
45 a registered or certified employee by a private security services business or training school, or (ii) issued a private security
46 services registration, certification as an unarmed security officer, electronic security employee or technician's assistant, a
47 private security services training school or instructor certification, compliance agent certification, or a private security services
48 business license, except that, upon written request, the Director of the Department of ~~Criminal Justice Services~~ may waive
49 such prohibition.

50 K. The Department may grant a temporary exemption from the requirement of a ~~license for licensure~~, certification, or
51 registration for a period of not more than thirty days in a situation deemed an emergency by the Department.

52 L. All private security services businesses and private security services training schools in the Commonwealth shall
53 include their license or certification number on all business advertising materials.

54 **DRAFTING NOTE:** Technical corrections only.

§ 9-483-2 9.1-140. Exceptions from article; training requirements for out-of-state central station dispatchers.

The provisions of this article shall not apply to the following:

1. An officer or employee of the United States of America, or of this the Commonwealth, or a political subdivision either, while the officer or employee or officer is performing his official duties.
2. A person engaged exclusively in the business of obtaining and furnishing information regarding an individual's financial rating or a person engaged in the business of a consumer reporting agency as defined by the Federal Fair Credit Reporting Act.
3. An attorney or certified public accountant licensed to practice in Virginia or his employees.
4. The legal owner of personal property which has been sold under any security agreement while performing acts relating to the repossession of such property.
5. A person receiving compensation for private employment as a security officer who is also a law-enforcement officer as defined by ~~§ 9-169~~ 9.1-101 and employed by the Commonwealth or any of its political subdivision thereof subdivisions.
6. Any person appointed under § 46.2-2003 or § 56-353 while engaged in the employment contemplated thereunder, unless they have successfully completed training mandated by the Department.
7. Persons who are regularly employed to investigate accidents or to adjust claims and who do not carry weapons in the performance of their duties.
8. Regular employees of persons engaged in other than the private security services business, where the regular duties of such employees primarily consist of protecting the property of their employers. Any such employee who carries a firearm and is in direct contact with the general public in the performance of his duties shall possess a valid registration with ~~this the~~ Department as provided in subsection B of ~~§ 9-183.3~~ 9.1-139. ~~General~~ For the purposes of this section "general public" means individuals who have access to areas open to all and not restricted to any particular class of the community.
9. Persons, sometimes known as "shoppers," employed to purchase goods or services solely for the purpose of determining or assessing the efficiency, loyalty, courtesy, or honesty of the employees of a business establishment.
10. Licensed or registered private investigators from other states entering Virginia during an investigation originating in their state of licensure or registration when the other state offers similar reciprocity to private investigators licensed and registered by the Commonwealth of Virginia.
11. Unarmed regular employees of telephone public service companies where the regular duties of such employees consist of protecting the property of their employers and investigating the usage of telephone services and equipment furnished by their employers, their employers' affiliates, and other communications common carriers.
12. An end user.
13. A material supplier who renders advice concerning the use of products sold by an electronics security business and who does not provide installation, monitoring, repair or maintenance services for electronic security equipment.
14. Members of the security forces who are directly employed by electric public service companies.
15. Any professional engineer or architect licensed in accordance with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 to practice in the Commonwealth, or his employees.
16. Any person who only performs telemarketing or schedules appointments without access to information concerning the electronic security equipment purchased by an end user.
17. Any certified forensic scientist employed as an expert witness for the purpose of possibly testifying as an expert witness.
18. Members of the security forces who are directly employed by shipyards engaged in the construction, design, overhaul or repair of nuclear vessels for the United States Navy.
19. An out-of-state central station dispatcher employed by a private security services business licensed by the Department provided he (i) possesses and maintains a valid license, registration, or certification as a central station dispatcher issued by the regulatory authority of the state in which he performs the monitoring duties and (ii) has submitted his fingerprints to the regulatory authority for the conduct of a national criminal history records search.

DRAFTING NOTE: Technical corrections only.

~~§ 9-182 9.1-141. Compulsory training standards for private security services business personnel Powers of Board relating to private security services business.~~

A. The Board ~~shall have the power to may issue~~ adopt regulations pursuant to Chapter 1.1-1 in accordance with the Administrative Process Act (~~§ 9-6.14:1- 2.2-4000~~ et seq.) of this title, establishing compulsory minimum, entry-level, in-service, and advanced training standards for persons employed by private security services businesses in classifications defined in ~~§ 9-183.4 9.1-138~~. The regulations may include provisions delegating to the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and ~~its Board~~ regulations. In establishing ~~by regulation~~ compulsory training standards for each of the classifications defined in ~~§ 9-183.4 9.1-138~~, the Board shall be guided by the policy of this section ~~which is to secure the public safety and welfare against incompetent unqualified persons engaging in the activities regulated by this section and Article 2-14~~ (~~§ 9-183.4 9.1-138~~ et seq.) of Chap

1 ~~27 of this title chapter.~~ The regulations may provide for exemption from such training for persons having previous employment
2 as law-enforcement officers for a state or the federal government; ~~however.~~ However, no such exemption shall be granted to
3 persons having less than five continuous years of such employment, nor shall an exemption be provided for any person
4 whose employment as a law-enforcement officer was terminated because of his misconduct or incompetence. The
5 regulations may include provisions for partial exemption from ~~such compulsory~~ training for persons having previous training
6 ~~which that~~ meets or exceeds the minimum training standards and has been approved by the Department, or for persons
7 employed in classifications defined in ~~§ 9-183.4; however 9.1-138.~~ However, no ~~such~~ exemption shall be granted to persons
8 having less than five continuous years of such employment, nor shall an exemption be provided for any person whose
9 employment as a private security services business employee was terminated because of his misconduct or incompetence.

10 B. The Board ~~shall have the power to may~~ enter into an agreement with other states for reciprocity or recognition of
11 private security services businesses and their employees, duly licensed by such states. The agreements shall allow those
12 businesses and their employees to provide and perform private security services within the Commonwealth to secure the
13 public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private
14 security services businesses.

15 C. The Board ~~shall have the power to promulgate may adopt~~ regulations pursuant to in accordance with the
16 Administrative Process Act (~~§ 9-6.14:1- 2.2-4000~~ et seq.) to secure the public safety and welfare against incompetent,
17 unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses ~~as follows that~~:

18 1. ~~To establish~~ Establish the qualifications of applicants for registration, certification, or licensure under Article 2-44
19 (~~§ 9-183.4 9.1-138~~) of Chapter 27 of this title chapter;

20 2. ~~To examine~~ Examine, or cause to be examined, the qualifications of each applicant for registration, certification, or
21 licensure, including when necessary the preparation, administration and grading of examinations;

22 3. ~~To certify~~ Certify qualified applicants for private security training schools and instructors or license qualified
23 applicants as practitioners of private security services businesses;

24 4. ~~To levy~~ Levy and collect fees for registration, certification, or licensure and renewal that are sufficient to cover all
25 expenses for administration and operation of a program of registration, certification, and licensure for private security services
26 businesses and training schools;

27 5. ~~To promulgate regulations~~ Are necessary to ensure continued competency, and to prevent deceptive or
28 misleading practices by practitioners and to effectively administer the regulatory system ~~promulgated adopted~~ by the Board;

29 6. ~~To receive~~ Receive complaints concerning the conduct of any person whose activities are regulated by the Board,
30 to conduct investigations, and to take appropriate disciplinary action if warranted; and

31 7. ~~To revoke~~ Revoke, suspend or fail to renew a registration, certification, or license for just cause as enumerated in
32 Board regulations of the Board.

33 D. In ~~promulgating adopting~~ its regulations under subsections A and C ~~of this section~~, the Board shall seek the
34 advice of the Private Security Services Advisory Board established pursuant to ~~§ 9-183.5 9.1-143~~.

35 **DRAFTING NOTE:** Technical corrections only.

36 ~~§ 9-183.4 9.1-142.~~ Powers of Department relating to private security services businesses.

37 A. In addition to the powers otherwise conferred upon it by law, the Department ~~shall have the power to may~~:

38 1. Charge each applicant for licensure, certification or registration a nonrefundable fee as established by the Board
39 to cover the costs of the Department for processing an application for a registration, certification or license, and enforcement
40 of these regulations, and other costs associated with the maintenance of this program of regulation.

41 2. Charge nonrefundable fees for private security services training as established by the Board for processing school
42 certifications and enforcement of training standards.

43 3. Conduct investigations to determine the suitability of applicants for registration, licensure, or certification of
44 compliance agents, training schools, and instructors. For purposes of this investigation, the Department shall have access to
45 criminal history record information maintained by the Central Criminal Records Exchange of the Department of State Police
46 and shall conduct a background investigation, to include a National Criminal Records search and a Virginia Criminal History
47 Records search.

48 4. ~~The Director, or agents appointed by him, are vested with the authority to administer oaths or affirmations for the~~
49 ~~purpose of receiving complaints and conducting investigations of violations of this article, or any regulation promulgated~~
50 ~~pursuant to authority given by this article. Information concerning alleged criminal violations shall be turned over to law~~
51 ~~enforcement officers in appropriate jurisdictions. Agents shall be vested with authority to serve such paper or process issued~~
52 ~~by the Department or the Board under regulations approved by the Board.~~

53 5. ~~In addition to the authority granted in § 9-6.14:13 to issue 4. Issue~~ subpoenas, ~~the~~ The Director or a designated
54 subordinate shall have the right to may make an ex parte application to the circuit court for the city or county wherein
55 evidence sought is kept or wherein a licensee does business, for the issuance of a subpoena duces tecum in furtherance of
56 the investigation of a sworn complaint within the jurisdiction of the Department or the Board to request production of any

1 relevant records, documents and physical or other evidence of any person, partnership, association or corporation licensed or
2 regulated by the Department pursuant to this article. The court ~~shall be authorized to~~ may issue and compel compliance with
3 such a subpoena upon a showing of reasonable cause. Upon determining that reasonable cause exists to believe that
4 evidence may be destroyed or altered, the court may issue a subpoena duces tecum requiring the immediate production of
5 evidence.

6 ~~65.~~ Recover costs of the investigation and adjudication of violations of this article or ~~the Board regulations of the~~
7 ~~Board.~~ Such costs may be recovered from the respondent when a sanction is imposed to fine or place on probation, suspend,
8 revoke, or deny the issuance of any license, certification, or registration. Such costs shall be in addition to any monetary
9 penalty which may be imposed. All costs recovered shall be deposited into the state treasury to the credit of the Private
10 Security Services Regulatory Fund.

11 6. Institute proceedings to enjoin any person from engaging in any lawful act enumerated in § 9.1-147. Such
12 proceedings shall be brought in the name of the Commonwealth by the Department in circuit court of the city or county in
13 which the unlawful act occurred or in which the defendant resides.

14 B. The Director, or agents appointed by him, shall be vested with the authority to administer oaths or affirmations for
15 the purpose of receiving complaints and conducting investigations of violations of this article, or any Board regulation
16 promulgated pursuant to authority given by this article. Information concerning alleged criminal violations shall be turned over
17 to law-enforcement officers in appropriate jurisdictions. Agents shall be vested with authority to serve such paper or process
18 issued by the Department or the Board under regulations approved by the Board.

19 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Department of Criminal Justice Services,
20 subdivision 6 was added to this section from subsection B of existing § 9-183.11.

21 ~~§ 9-183.5~~ 9.1-143. Private Security Services Advisory Board; membership.

22 ~~There shall be a~~ The Private Security Services Advisory Board is established as an advisory board within the
23 meaning of § 2.2-2100, in the executive branch of state government, which shall be composed ~~The Private Security Services~~
24 Advisory Board shall consist of eleven members. Two of the as follows: two members shall be private investigators; two shall
25 be representatives of electronic security businesses; three shall be representatives of private security services businesses
26 providing security officers, armed couriers or guard dog handlers; one shall be a representative of a private security services
27 business providing armored car personnel; one shall be a representative of a private security services business involving
28 personal protection specialists; one shall be a certified private security services instructor; and one shall be a representative
29 of law enforcement. The Private Security Services Advisory Board shall be appointed by the Criminal Justice Services Board
30 and shall advise the Criminal Justice Services Board on all issues relating to regulation of private security services
31 businesses.

32 **DRAFTING NOTE:** Technical corrections only.

33 ~~§ 9-183.6~~ 9.1-144. Bond or insurance required; actions against bond.

34 A. Every person licensed as a private security services business under subsection A of ~~§ 9-183.3~~ 9.1-139 or certified
35 as a private security services training school under subsection B of ~~§ 9-183.3~~ 9.1-139 shall, at the time of receiving the
36 license or certification and before the license or certification shall be operative, file with the Department (i) a cash bond or
37 evidence that the licensee or certificate holder is covered by a surety bond, executed by a surety company authorized to do
38 business in ~~the~~ the Commonwealth, in a reasonable amount to be fixed by the Department, conditioned upon the faithful and
39 honest conduct of his business or employment; or (ii) evidence of a policy of liability insurance in an amount and with
40 coverage as fixed by the Department. The bond or liability insurance shall be maintained for so long as the licensee or
41 certificate holder is licensed or certified by the Department.

42 B. If any person aggrieved by the misconduct of any person licensed or certified under subsection A or B of ~~§ 9-~~
43 ~~183.3~~ 9.1-139 recovers judgment against the licensee or certificate holder, which judgment is unsatisfied in whole or in part,
44 such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon such judgment,
45 maintain bring an action in his own name upon on the bond of the licensee or certificate holder.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 9-183.7~~ 9.1-145. Fingerprints required.

48 Each applicant for registration, licensure or certification as a compliance agent, or private security services training
49 school or instructor under the provisions of this article and every person employed as an electronic security employee or
50 electronic security technician's assistant shall submit his fingerprints to the Department on a form provided by the
51 Department.

52 **DRAFTING NOTE:** Technical corrections only.

53 ~~§ 9-183.8~~ 9.1-146. Powers-Limitation on powers of registered armed security officers; limitations.

Compliance with the provisions of this article shall not itself authorize any person to carry a concealed weapon or exercise any powers of a conservator of the peace. A registered armed security officer of a private security services business while at a location which the business is contracted to protect shall have the power to effect an arrest for an offense occurring (i) in his presence on such premises or (ii) in the presence of a merchant, agent, or employee of the merchant the private security business has contracted to protect, if the merchant, agent, or employee had probable cause to believe that the person arrested had shoplifted or committed willful concealment of goods as contemplated by § 18.2-106. For the purposes of § 19.2-74, a registered armed security officer of a private security services business shall be considered an arresting officer.

DRAFTING NOTE: Technical corrections only.

~~§ 9-183.11~~ 9.1-147. Unlawful conduct; powers of Department generally; penalty.

A. It shall be unlawful for any person, partnership, corporation or other entity to engage in any of the following acts:

1. ~~Practicing Practice~~ any trade or profession licensed, certified or registered under this article without obtaining the necessary license, certification or registration required by statute or regulation;

2. Materially ~~misrepresenting~~ misrepresent facts in an application for licensure, certification or registration;

3. Willfully ~~refusing~~ refuse to furnish the Department information or records required or requested pursuant to statute or regulation; and

4. ~~Violating~~ Violate any statute or regulation governing the practice of the private security services businesses or training schools regulated by this article.

B. Any person who ~~willfully engages in any unlawful act enumerated in this section~~ is convicted of willful violation of subsection A shall be guilty of a Class 1 misdemeanor. Any person convicted of a third or subsequent offense under this section during a thirty-six-month period shall be guilty of a Class 6 felony.

~~B. In addition to the provisions of subsection A of this section, the Department may institute proceedings in equity to enjoin any person, partnership, corporation or any other entity from engaging in any unlawful act enumerated in this section. Such proceedings shall be brought in the name of the Commonwealth by the Department in the circuit court of the city or county in which the unlawful act occurred or in which the defendant resides~~

DRAFTING NOTE: Technical corrections. On the recommendation of the Department of Criminal Justice Services, existing subsection B, shown here as stricken, now appears as subdivision 6 in proposed § 9.1-142, Powers of the Department, supra.

~~§ 9-183.10~~ 9.1-148. Unlawful procurement of a license; penalty.

A. It shall be unlawful for any person to:

1. ~~For any person to procure~~ Procure, or assist another to procure, through theft, fraud or other illegal means, a registration or license, by giving to, or receiving from, any person any information, oral, written or printed, during the administration of the examination, which is intended to, or will, assist any person taking the examination in passing the examination and obtaining the required registration or license;

2. ~~For any person, other than a designee of the Department, to procure or have in his possession prior to the beginning of an examination, without written authority of the Department, any question intended to be used by the Department, or to receive or furnish to any person taking the examination, prior to or during the examination, any written or printed material purporting to be answers to, or aid in answering such questions;~~

3. ~~For any person to attempt~~ Attempt to procure, through theft, fraud or other illegal means, any questions intended to be used by the Department conducting the examination, or the answers to the questions; and

4. ~~To promise~~ Promise or offer any valuable or other consideration to a person having access to the questions or answers as an inducement to procure for delivery to the promisor, or any other person, a copy or copies of any questions or answers.

B. No person, other than a designee of the Department, shall procure or have in his possession prior to the beginning of an examination, without written authority of the Department, any question intended to be used by the Department, or receive or furnish to any person taking the examination, prior to or during the examination, any written or printed material purporting to be answers to, or aid in answering such questions;

C. If an examination is divided into separate parts, each of the parts shall be deemed an examination for the purposes of this section.

~~B.D.~~ D. Any person ~~violating~~ convicted of a violation the provisions of subsections A or B shall be guilty of a Class 2 misdemeanor.

DRAFTING NOTE: Technical corrections only.

~~§ 9-183.9~~ 9.1-149. Penalties Unlicensed activity prohibited; penalty.

A. ~~It shall be a Class 1 misdemeanor for any~~ No person; required

1 1. Required to possess a registration under subsection C of § 9-183.3 to 9.1-139 shall be employed by a private
2 security services business, except as provided in this article, as armored car personnel, courier, armed security officer,
3 security canine handler, personal protection specialist, private investigator, alarm respondent, central station dispatcher,
4 electronic security sales representative or electronic security technician without possessing a valid registration.

5 ~~B. It shall be a Class 1 misdemeanor for any person licensed~~ 2. Licensed or required to be licensed under
6 subsection A of ~~§ 9-183.3 to 9.1-139 shall~~ employ or otherwise utilize, except as provided in this article, as armored car
7 personnel, courier, armed security officer, security canine handler, personal protection specialist, private investigator, alarm
8 respondent, central station dispatcher, electronic security sales representative or electronic security technician, any person
9 not possessing a valid registration.

10 ~~C. It shall be a Class 1 misdemeanor for any compliance agent employed or otherwise utilized by a person licensed~~
11 ~~or required to be licensed under subsection A of § 9-183.3, to employ or otherwise utilize as an unarmed security officer,~~
12 ~~except as provided in this article, any individual for whom the compliance agent does not possess documentary evidence of~~
13 ~~compliance with, or exemption from, the compulsory minimum training standards established by the Board for unarmed~~
14 ~~security officers and documentary evidence that an investigation to determine suitability has been conducted.~~

15 ~~D. Except as provided by this article, it shall be a Class 1 misdemeanor for any compliance agent employed or~~
16 ~~otherwise utilized by a person licensed or required to be licensed under subsection A of § 9-183.3 to employ or otherwise~~
17 ~~utilize as an electronic security technician's assistant any individual for whom the compliance agent does not possess~~
18 ~~documentary evidence of compliance with, or exemption from, the compulsory minimum training standards established by the~~
19 ~~Board for electronic security technician's assistants.~~

20 ~~E. It shall be a Class 1 misdemeanor for any person required~~ 3. Required to possess an instructor certification under
21 subsection D of ~~§ 9-183.3 to 9.1-139 shall~~ provide mandated instruction, except as provided in ~~§ 9-182 9.1-141 and Board~~
22 ~~regulations of the Board, without possessing a valid private security instructor certification.~~

23 ~~F. It shall be a Class 1 misdemeanor for any person certified~~ 4. Certified or required to be certified as a private
24 security services training school under subsection B of ~~§ 9-183.3 to 9.1-139 shall~~ employ or otherwise utilize, except as
25 provided in ~~§ 9-182 9.1-141 and the Board regulations of the Board, as a private security instructor, any person not~~
26 ~~possessing a valid instructor certification.~~

27 B. No compliance agent employed or otherwise utilized by a person licensed or required to be licensed under
28 subsection A of § 9.1-139 shall:

29 1. Employ or otherwise utilize as an unarmed security officer, except as provided in this article, any individual for
30 whom the compliance agent does not possess documentary evidence of compliance with, or exemption from, the compulsory
31 minimum training standards established by the Board for unarmed security officers and documentary evidence that an
32 investigation to determine suitability has been conducted.

33 2. Employ or otherwise utilize as an electronic security technician's assistant, except as provided in this article, any
34 individual for whom the compliance agent does not possess documentary evidence of compliance with, or exemption from,
35 the compulsory minimum training standards established by the Board for electronic security technician's assistants.

36 C. Any person convicted of a violation of subsections A or B shall be guilty of a Class 1 misdemeanor.

37 **DRAFTING NOTE:** Technical corrections. This section has been rewritten to eliminate repetitive language.

38 ~~§ 9-183.12 9.1-150. Same; monetary~~ Monetary penalty.

39 Any person licensed, certified or registered by the Board pursuant to this article who violates any statute or Board
40 regulation ~~pertaining to the Board~~ who is not criminally prosecuted shall be subject to the monetary penalty provided in this
41 section. If the Board determines that a respondent is guilty of the violation complained of, the Board shall determine the
42 amount of the monetary penalty for the violation, which shall not exceed \$2,500 for each violation. The penalty may be sued
43 for and recovered in the name of the Commonwealth. ~~Such~~ The monetary penalty shall be paid into the state treasury to the
44 credit of the Literary Fund in accordance with § 19.2-353.

45 **DRAFTING NOTE:** Technical corrections only.

46 Article 5.

47 Court-Appointed Special Advocate Program.

48 ~~§ 9-173.6 9.1-151. Established; powers of Director~~ Court-Appointed Special Advocate Program; appointment of
49 advisory committee.

50 A. There is ~~hereby~~ established a Court-Appointed Special Advocate Program (the "Program"), ~~hereinafter referred to~~
51 ~~as the Program. The Program~~ that shall be administered by the Department of Criminal Justice Services. The Program shall
52 provide services in accordance with this article to children who are subjects of judicial proceedings involving allegations that
53 the child is abused, neglected, in need of services or in need of supervision, and for whom the juvenile and domestic relations
54 district court judge determines such services are appropriate. The Department shall ~~promulgate~~ adopt regulations necessary
55 and appropriate for the administration of the Program.

1 B. The Board shall appoint an Advisory Committee to the Court-Appointed Special Advocate Program, consisting of
2 fifteen members, knowledgeable of court matters, child welfare and juvenile justice issues and representative of both state
3 and local interests. The duties of the Advisory Committee shall be to advise the Board on all matters relating to the Program
4 and the needs of the clients served by the Program, and to make such recommendations as it may deem desirable.

5 **DRAFTING NOTE:** Technical corrections. On the recommendation of Department of Criminal Justice Services, juvenile court
6 has been inserted before judge in subsection A to clarify that the Court-Appointed Special Advocate program is available to
7 these judges.

8 ~~§ 9-173-7~~ 9.1-152. Local court-appointed special advocate programs; powers and duties.

9 A. The Department shall provide a portion of ~~such any~~ funding ~~as shall be~~ appropriated for this purpose to applicants
10 seeking to establish and operate a local court-appointed special advocate program in their respective judicial districts. Only
11 local programs operated in accordance with this article shall be eligible to receive ~~such~~ state funds.

12 B. Local programs may be established and operated by local boards created for this purpose. Local boards shall
13 ensure conformance to regulations ~~promulgated-adopted~~ by the Board and ~~shall have the power to~~ may:

14 1. Solicit and accept financial support from public and private sources.

15 2. Oversee the financial and program management of the local court-appointed special advocate program.

16 3. Employ and supervise a director who shall serve as a professional liaison to personnel of the court and agencies
17 serving children.

18 4. Employ such staff as is necessary to the operation of the program.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§ 9-173-8~~ 9.1-153. Volunteer court-appointed special advocates; powers and duties; assignment; qualifications;
21 training.

22 A. Services in each local court-appointed special advocate program shall be provided by volunteer court-appointed
23 special advocates, hereinafter referred to as advocates. The advocate's duties shall include:

24 1. ~~Investigation of~~ Investigating the case to which he is assigned to provide independent factual information to the
25 court.

26 2. ~~Submission~~ Submitting to the court of a written report of ~~such his~~ investigation in compliance with the provisions of
27 § 16.1-274. ~~Such~~ The report may, upon request of the court, include recommendations as to the child's welfare.

28 3. Monitoring the case to which he is assigned to ensure compliance with the court's orders.

29 4. Assisting ~~a any appointed guardian ad litem appointed, if one has been appointed,~~ to represent the child in
30 providing effective representation of the child's needs and best interests.

31 5. Reporting a suspected abused or neglected child pursuant to § 63.1-248.3.

32 B. The advocate is not a party to the case to which he is assigned and shall not call witnesses or examine
33 witnesses. The advocate shall not, with respect to the case to which he is assigned, provide legal counsel or advice to any
34 person, appear as counsel in court or in proceedings which are part of the judicial process, or engage in the unauthorized
35 practice of law. The advocate may testify if called as a witness.

36 BC. The program director shall assign an advocate to a child when requested to do so by the judge of the juvenile
37 and domestic relations district court having jurisdiction over the proceedings. The advocate shall continue his association with
38 each case to which he is assigned until relieved of his duties by the court or by the program director.

39 CD. The Department shall ~~promulgate-adopt~~ regulations governing the qualifications of advocates who for purposes
40 of administering this subsection shall be deemed to be criminal justice employees. ~~Such~~ The regulations shall require that an
41 advocate be at least twenty-one years of age and that the program director shall obtain with the approval of the court (i) a
42 copy of his criminal history record or certification that no conviction data are maintained on him and (ii) a copy of information
43 from the central registry maintained pursuant to § 63.1-248.8 on any investigation of child abuse or neglect undertaken on
44 him or certification that no such record is maintained on him. Advocates selected prior to the ~~promulgation-adoption~~
45 of regulations governing qualifications shall meet the minimum requirements ~~as set forth in this article and in regulation~~.

46 D. An advocate shall have no associations which create a conflict of interests or the appearance of such a conflict
47 with his duties as an advocate. No advocate shall be assigned to a case of a child whose family has a professional or
48 personal relationship with the advocate. Questions concerning conflicts of interests shall be determined in accordance with
49 regulations ~~promulgated-adopted~~ by the Department.

50 E. No applicant shall be assigned as an advocate until successful completion of a program of training required by
51 regulations. The Department shall set standards for both basic and ongoing training.

52 **DRAFTING NOTE:** Technical corrections only. Language shown as stricken at the end of subsection C relating to Board
53 regulation has been deleted because it is in conflict with the last sentence of subsection C.

Nothing ~~herein in this section~~ shall prohibit the use of a symbol other than "McGruff" by a locality which currently has some other safe house program in existence and operation.

DRAFTING NOTE: Technical corrections only.

~~§ 9-173.18~~ 9.1-160. Designation of McGruff House; application; penalty.

All persons displaying the McGruff House symbol so that it is visible from the outside of their house shall first apply for designation as a McGruff House with ~~the a~~ local law-enforcement agency. Upon receipt of an application for designation, the local law-enforcement agency shall conduct a background check of the applicant in accordance with Chapter 23 (§ 19.2-387 et seq.) of Title 19.2 and ~~the Department~~ regulations promulgated ~~by the Department~~ at no charge to the applicant. Any background checks of applicants for this program conducted by the Department of Social Services through the Child Abuse Registry shall be done at no charge. Upon finding that the applicant meets the criteria established by the Department for maintaining a McGruff House and receipt of a signed statement by the applicant agreeing to the terms and conditions of the McGruff House Program, the law-enforcement agency shall provide the applicant with the McGruff House symbol.

The McGruff House symbol ~~remains~~ shall remain the property of the local law-enforcement agency. Upon a determination by the issuing law-enforcement agency that a house no longer meets the established criteria for a McGruff House, the symbol shall promptly be returned to the issuing law-enforcement agency.

Failure to return the symbol promptly after receipt of a written request to do so, which shall state the reason for the request, shall be subject to a civil penalty of up to \$100. ~~Subsequent to July 1, 1994, display of a McGruff House symbol by persons.~~ Persons not designated pursuant to this section ~~to participate in the program to display the McGruff House symbol~~ shall be subject to a civil penalty of up to \$100.

DRAFTING NOTE: Technical corrections only.

~~§ 9-173.19~~ 9.1-161. Establishment of crime ~~Crime~~ prevention specialists; duties.

The Board of ~~Criminal Justice Services~~ shall promulgate ~~adopt~~ regulations establishing minimum standards for certification of crime prevention specialists. ~~The duties of a~~ A crime prevention specialist shall include, but not be limited to, ~~the following have the duty to:~~

1. ~~To provide~~ Provide citizens living within his jurisdiction information concerning personal safety and the security of property, and other matters relating to the reduction of criminal opportunity;

2. ~~To provide~~ Provide business establishments within his jurisdiction information concerning business and employee security, and other matters relating to reduction of criminal activity;

3. ~~To provide~~ Provide citizens and businesses within his jurisdiction assistance in forming and maintaining neighborhood and business watch groups and other community-based crime prevention programs;

4. ~~To provide~~ Provide assistance to other units of government within his jurisdiction in developing plans and procedures related to the reduction of criminal activity within government and the community; and

5. ~~To promote~~ Promote the reduction and prevention of crime within his jurisdiction and the Commonwealth.

DRAFTING NOTE: Technical corrections only.

~~§ 9-173.20~~ 9.1-162. Eligibility; ~~requirements~~ for crime prevention specialists.

A. ~~Any employee of a local or state law-enforcement agency is~~ shall be eligible to be trained and certified as a crime prevention specialist.

B. The chief executive of any local or state law-enforcement agency may designate one or more employees in his department or office to be trained and certified as a crime prevention specialist.

DRAFTING NOTE: Technical corrections only.

Article 7.

Detoxification Programs.

~~§ 9-173.2~~ 9.1-163. Definitions.

~~The following terms, whenever As~~ used in this article, shall have the following meanings unless the context requires a different meaning:

"Detoxification center program" means any facility program or procedure whereby a local governing body, or any combination of local governing bodies, ~~establishes, operates or maintains or otherwise arranges or contracts for the establishment, operation or maintenance of a facility, whether operated by the locality or by a private agency,~~ for the placement of public inebriates as an alternative to arresting and jailing such persons, for the purpose of monitoring the withdrawal from excessive use of alcohol. A judge of the district court in the jurisdiction in which the facility will be located

1 shall approve specific methods and means of transportation available to law enforcement officers for transporting pt
2 inebriates to such programs.

3 "Public inebriate" means any person who is drunk in a public place and would be subject to arrest for drunkenness
4 under § 18.2-388 or local ordinance established for the same offense.

5 **DRAFTING NOTE:** Technical corrections. On the recommendation of Department of Criminal Justice Services, this section
6 has been amended to eliminate archaic and repetitive language, and to make it consistent with the Pretrial Services and
7 Comprehensive Community Corrections for Local-Responsible Offenders Acts.

8 ~~§ 9-173-1 9.1-164. Establishment of programs; purpose; rules and regulations; judicial approval of facilities.~~

9 ~~A. The Department of Criminal Justice Services shall promulgate rules and regulations, no later than October 1,
10 1982, the purpose of which shall be to make funds available to local units of government for establishing, operating and
11 maintaining or contracting for local or regional detoxification center programs to provide an alternative to arresting and jailing
12 public inebriates. It is the purpose of this article to enable any city, county, or combination thereof, to develop, establish,
13 operate, maintain, or to contract with any qualified public or private agency for local or regional detoxification center
14 programs, services, or facilities.~~

15 ~~B. The Department of Criminal Justice Services shall promulgate rules and adopt regulations for the implementation
16 of such programs.~~

17 ~~C. Detoxification center programs established or operated pursuant to this section shall be governed solely by the
18 rules and regulations promulgated adopted by the Department of Criminal Justice Services therefor. The Department of
19 Criminal Justice Services shall establish a grant procedure to govern the award of award funds as may be appropriated for
20 such purposes to local units of government.~~

21 ~~D. The chief judge of the general district court in the jurisdiction that will be served by the facility shall approve the
22 facility for the diversion of public inebriates from arrest and jail pursuant to § 18.2-388.~~

23 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Department of Criminal Justice Services,
24 subsection D was added to be consistent with the Pretrial Services and Comprehensive Community Corrections for Local
25 Responsible Offenders Acts.

26 Article 8.

27 Law-Enforcement Expenditures.

28 ~~§ 9-183-14 9.1-165. (Effective October 1, 1988) Definitions.~~

29 ~~For the purposes of As used in this article, the following definitions shall be applicable unless the context requires a
30 different meaning:~~

31 "Adjusted crime index" means the potential crime rate for a locality multiplied by the base year population of the
32 locality as estimated by the Center for Public Service.

33 "Average crime rate" for a city or eligible county means the annual average number of violent and property index
34 crimes per 100,000 persons, as reported by the Superintendent of State Police, for the base year and the fiscal year
35 immediately preceding, and the fiscal year immediately following, the base year. If the data are not available for the fiscal year
36 immediately following the base year, the average shall be based on the base year and the two immediately preceding fiscal
37 years.

38 "Base year" means the most recent fiscal year for which comparable data are available for: (i) population estimates
39 by the Center for Public Service or the United States Bureau of the Census, adjusted for annexation as determined by the
40 Department, (ii) actual state expenditures for salaries and expenses of sheriffs as reported by the Compensation Board, (iii)
41 number of persons eligible for Temporary Assistance to Needy Families as defined in § 63.1-86.1, (iv) number of persons in
42 foster care, as defined in § 63.1-195, and (v) the number of persons receiving maintenance payments in a general relief
43 program as defined in § 63.1-87.

44 "Distribution formula" means that linear equation derived biennially by the Department, using standard statistical
45 procedures, which best predicts average crime rates in all cities and eligible counties in the Commonwealth on the basis of
46 the following factors in their simplest form:

47 1. The total base year number of (i) persons enrolled in Temporary Assistance to Needy Families, (ii) persons in
48 foster care, and (iii) persons receiving maintenance payments in a general relief program, per 100,000 base year population;
49 and

50 2. The local population density, based on the base year population estimates of the Center for Public Service,
51 adjusted for annexation as determined by the Department, and the land area in square miles of the city or eligible county as
52 reported by the United States Census Bureau, adjusted for annexation as determined by the Department.

53 "Eligible county" means any county which operates a police department.

1 "Police department" means that organization established by ~~the ordinance by a local governing body of a county,~~
2 ~~city, or town, by ordinance, which that~~ is responsible for the prevention and detection of crime, the apprehension of criminals,
3 the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and
4 ordinances. Such department shall have a chief of police, which in the case of counties may be the sheriff, and such officers,
5 privates, and other personnel as may be provided for in the ordinance, one sworn member of which shall be a full-time
6 employee. All law-enforcement officers serving as members of such police department, whether full-time or part-time, and
7 whether permanently or temporarily employed, shall meet the minimum training standards established pursuant to ~~§§ 9-170~~
8 ~~9.1-102 and 9-180 9.1-114,~~ unless such personnel are exempt from the minimum training standards as provided in ~~§§ 9-173~~
9 ~~9.1-116 and 9-179 9.1-113.~~ Any police department established subsequent to July 1, 1981, shall also have, at a minimum,
10 one officer on duty at all times for the purposes set forth above.

11 However, notwithstanding any contrary provision of this definition, ~~any~~

12 1. Any locality receiving funds under this article during the 1980-82 biennium shall be considered to have a valid
13 police department eligible for funds as long as such police department continues in operation;

14 ~~Provided further, notwithstanding any contrary provision of this definition, any~~ 2. Any town receiving funds under this
15 article during the 1986-1988 biennium shall be considered to have a valid police department eligible for funds even though
16 police services for such town may thereafter be provided by the sheriff of the county in which the town is located by
17 agreement made pursuant to § 15.2-1726. Eligibility for funds under this ~~provision-subdivision~~ shall last as long as such
18 agreement remains in effect. Police services for the town furnished by the sheriff shall be equal to or greater than the police
19 services last furnished by the town's police department.

20 "Population served by police departments" means the total base year population of the Commonwealth less the
21 population served by sheriffs only.

22 "Population served by sheriffs only" means the total base year population of those counties without a police
23 department, less the latest available estimate from the United States Bureau of the Census of the total population of towns, or
24 portions of towns, having police departments, located in such counties.

25 "Potential crime rate" means the number of crimes per 100,000 persons in the base year population for each city or
26 eligible county, as derived from the distribution formula.

27 "State aid to localities with police" means that amount which bears the same relationship to the population served by
28 police departments as state aid to sheriff-only localities bears to the population served by sheriffs only.

29 "State aid to sheriff-only localities" means the estimated total amount for salaries and expenses to be paid by the
30 Commonwealth, pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 of Title 15.2, to sheriffs' offices in those counties
31 without a police department, based on the actual percentage of total state expenditures in the base year distributed to those
32 counties without police departments.

33 ~~"The Department" means the Department of Criminal Justice Services.~~

34 **DRAFTING NOTE:** Technical corrections. The definition of "Department" has been deleted because this term is already
35 defined in proposed § 9.1-101, which provides for definitions for the entire chapter.

36 ~~§ 9-183-13 9.1-166. (Effective October 1, 1998)~~ Local governments to receive state funds for law enforcement.

37 The Department of the Treasury shall disburse funds to cities, towns and counties, to aid in the law-enforcement
38 expenditures of those local governments, pursuant to the terms of this article.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§ 9-183-15 9.1-167. (Effective October 1, 1998)~~ Calculation of adjusted crime index; use.

41 By January 1 of each even-numbered year, the Department, using the relevant base year data, shall calculate the
42 adjusted crime index for each city and each eligible county. Such calculation shall be used for the succeeding fiscal biennium
43 adjusted for annexation as determined by the Department.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 9-183-19 9.1-168. (Effective October 1, 1998)~~ Eligibility for funds.

46 A. Any city, county, or town establishing a police department shall provide the Department written notice of its intent
47 to seek state funds in accordance with the provisions of this article. Such city, county, or town shall become eligible to receive
48 funds at the beginning of the next fiscal year which commences not sooner than twelve months after the filing of this notice.

49 B. No city, county, or town shall receive any funds in accordance with the terms of this article unless it notifies the
50 Department prior to July 1 each year that its law-enforcement personnel, whether full-time or part-time and whether
51 permanently or temporarily employed, have complied with the minimum training standards as provided in ~~§§ 9-170 9.1-102~~
52 ~~and 9-180 9.1-114,~~ unless such personnel are exempt from the minimum training standards as provided in ~~§§ 9-173 9.1-116~~
53 ~~and 9-179 9.1-113~~ or that an effort will be made to have its law-enforcement personnel comply with such minimum training

1 standards during the ensuing fiscal year. Any city, county, or town failing to make an effort to comply with the minimum
2 training standards may be declared ineligible for funding in the succeeding fiscal year by the Department.

3 C. A change in the form of government from city to tier-city shall not preclude the successor tier-city which continues
4 to provide a police department from eligibility for funds.

5 D. Any county consolidated under the provisions of Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2 shall be eligible to
6 receive financial assistance for law-enforcement expenditures subject to the provisions of this article. The consolidated
7 county shall be eligible to receive, on behalf of the formerly incorporated towns that became shires, boroughs or special
8 service tax districts within the consolidated county, law-enforcement assistance under the provisions of this article, provided
9 that the consolidation agreement approved pursuant to Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2 provides for the
10 additional law-enforcement governmental services previously provided by the police department of such incorporated towns.

11 **DRAFTING NOTE:** This proposed section is comprised of the following existing sections: subsections A through C are § 9-
12 183.19 and subsection D is § 9-183.20.

13 ~~§ 9-183.20. (Effective October 1, 1998) Law-enforcement expenditures for certain counties.~~

14 ~~Any county consolidated under the provisions of Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2 shall be eligible to~~
15 ~~receive financial assistance for law-enforcement expenditures subject to the provisions of this article. The consolidated~~
16 ~~county shall be eligible to receive, on behalf of the formerly incorporated towns which became shires, boroughs or special~~
17 ~~service tax districts within the consolidated county, law-enforcement assistance under the provisions of this article, provided~~
18 ~~that the consolidation agreement approved pursuant to Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2 provides for the~~
19 ~~additional law-enforcement governmental services previously provided by the police department of such incorporated towns.~~

20 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 9.1-168 supra.

21 ~~§ 9-183.46 9.1-169. (Effective October 1, 1998) Total amount and method of distribution of funds to counties and~~
22 ~~cities.~~

23 A. The total amount of funds to be distributed as determined by the Department shall be equal to the amount of state
24 aid to localities with police, as defined in ~~§ 9-183.44 9.1-165~~, minus (i) the salaries and expenses of sheriffs' offices in such
25 cities and counties as estimated pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 of Title 15.2 and (ii) five percent of
26 the remainder, which shall be placed in a discretionary fund to be administered as specified in ~~§ 9-183.48 9.1-171~~. However,
27 ~~beginning July 1, 1982~~, the percentage change in the total amount of funds to be distributed for any fiscal year from the
28 preceding fiscal year shall be equal to the anticipated percentage change in total general fund revenue collections for the
29 same time period as stated in the appropriation act.

30 B. Each city and eligible county shall receive a percentage of such total amount to be distributed equal to the
31 percentage of the total adjusted crime index attributable to such city or county. Payments to the cities and eligible counties
32 shall be made in equal quarterly installments by the State Treasurer on warrants issued by the Comptroller. Notwithstanding
33 the foregoing provisions, the General Assembly, through the general appropriation act, may appropriate specific dollar
34 amounts to provide financial assistance to localities with police departments.

35 **DRAFTING NOTE:** Technical corrections only.

36 ~~§ 9-183.47 9.1-170. (Effective October 1, 1998) Distribution of funds to towns.~~

37 A. Towns located in eligible counties and which have police departments shall receive a percentage of the funds
38 distributed to the county in accordance with ~~§ 9-183.46 9.1-169~~, such percentage to be equal to the ratio of the town's
39 population as determined by the Department to the total population of the county.

40 B. Towns located in noneligible counties shall be assigned an adjusted crime index based on their population and
41 the average of the three lowest predicted crime rates for cities. Such towns shall receive funds based on such adjusted crime
42 index in the same manner as cities and eligible counties as provided in ~~§ 9-183.46 9.1-169~~.

43 **DRAFTING NOTE:** Technical corrections only.

44 ~~§ 9-183.48 9.1-171. (Effective October 1, 1998) Distribution of discretionary fund.~~

45 In the case of a city with a population of more than 200,000 receiving per capita aid for law enforcement in
46 accordance with ~~§ 9-183.46 9.1-169~~ of less than sixty-five percent of the average per capita aid to law enforcement received
47 by all other cities with a population of more than 200,000 under such provisions, exclusive of amounts payable by reason of
48 this section, the discretionary fund established by ~~§ 9-183.46 9.1-169~~ shall first be used to pay such city an aggregate sum so
49 as to make its per capita receipts for law enforcement under ~~§ 9-183.46 9.1-169~~ equal to sixty-five percent of the average per
50 capita aid for law enforcement disbursed to all other cities with a population of more than 200,000. The remainder, if any,
51 shall be distributed per capita among (i) cities with populations under 200,000, (ii) eligible counties, and (iii) towns having
52 police departments.

53 **DRAFTING NOTE:** Technical corrections only.

2 § ~~9-183.21~~ 9.1-172. (Effective October 1, 1998) Periodic determination of weights and constants.

3 Prior to the convening of the General Assembly in each even-numbered year, the Department shall ~~cause research~~
4 ~~to be conducted to~~ determine whether the variables incorporated in the equation used in the distribution formula are
5 statistically acceptable for such computation, and to determine whether any other variables would be better predictors of
6 crime. If, as a result of this research, the Department determines that the variables used in the equation should be changed, it
7 shall recommend to the General Assembly appropriate legislation to accomplish ~~such this~~ change.

7 **DRAFTING NOTE:**

8 Article 9.

9 Comprehensive Community Corrections Act for Local-Responsible Offenders.

10 § ~~53.1-180~~ 9.1-173. Purpose

11 It is the purpose of this article to enable any city, county or combination thereof to develop, establish and maintain
12 community-based corrections programs to provide the judicial system with sentencing alternatives for certain misdemeanants
13 or persons convicted of nonviolent felonies, as defined in § 19.2-316.1 and sentenced pursuant to § 19.2-303.3, for whom the
14 court may impose a jail sentence and who may require less than institutional custody.

15 The article shall be interpreted and construed so as to ~~effect the following purposes:~~

- 16 1. ~~To allow~~ Allow individual cities, counties, or combinations thereof greater flexibility and involvement in responding
17 to the problem of crime in their communities;
- 18 2. ~~To provide~~ Provide more effective protection of society and to promote efficiency and economy in the delivery of
19 correctional services;
- 20 3. ~~To provide~~ Provide increased opportunities for offenders to make restitution to victims of crimes through financial
21 reimbursement or community service;
- 22 4. ~~To permit~~ Permit cities, counties or combinations thereof to operate and utilize programs and services specifically
23 designed to meet the rehabilitative needs of selected offenders; and
- 24 5. ~~To provide~~ Provide appropriate post-sentencing alternatives in localities for certain offenders with the goal of
25 reducing the incidence of repeat offenders.

26 **DRAFTING NOTE:** Technical corrections. On the recommendation of Department of Criminal Justice Services, Article 2 (§
27 53.1-180 et seq.) of Title 53.1 has been relocated to this chapter because Department of Criminal Justice Services is now
28 responsible for the administration of this article.

29 § ~~53.1-181~~ 9.1-174. Establishment of program.

30 To facilitate local involvement and flexibility in responding to the problem of crime in their communities and to permit
31 locally designed programs which will fit its needs, any city, county or combination thereof may, and any city, county or
32 combination thereof which is required by § 53.1-82.1 to file a community-based corrections plan shall establish a system of
33 community-based services pursuant to this article. This system is to provide alternative programs for defendants and
34 offenders who, pursuant to § 19.2-303.3, are convicted, sentenced and placed on probation services through a court and who
35 are considered suitable candidates for programs which require less than incarceration in a local correctional facility. Such
36 programs and services may be provided by qualified public agencies or private agencies pursuant to appropriate contracts.

37 **DRAFTING NOTE:** Technical corrections only.

38 § ~~53.1-182~~ 9.1-175. Board to prescribe standards; biennial plan.

39 The Board of ~~Criminal Justice Services~~ shall approve standards as prescribed by the Department of ~~Criminal Justice~~
40 ~~Services~~ for the development, implementation, operation and evaluation of local community-based probation programs,
41 services and facilities authorized by this article. Any city, county or combination thereof which establishes programs and
42 provides services pursuant to this article shall submit a biennial plan to the Department of ~~Criminal Justice Services~~ for review
43 and approval.

44 **DRAFTING NOTE:** Technical corrections only.

45 § ~~53.1-182.4~~ 9.1-176. Mandated services; optional programs.

46 Any city, county or combination thereof which elects or is required to establish a community-based corrections
47 program pursuant to this article shall provide to the judicial system the following programs and services: community service;
48 home incarceration with or without electronic monitoring; electronic monitoring; probation supervision; and substance abuse
assessment, testing and treatment. Additional programs and services, including, but not limited to, local day reporting center
programs and services, local halfway house programs and services for the temporary care of adults placed on probation, and
public inebriate diversion programs, may be established by the city, county or combination thereof.

1 **DRAFTING NOTE:** Technical corrections only.

2 | ~~§ 53.1-182.1-4~~ 9.1-177. Form of oath of office for local probation officers.

3 Every local probation officer who is an employee of a local community-based probation agency, established by any
4 city, county or combination thereof, or operated pursuant to this article, that provides probation and related services pursuant
5 to the requirements of this article, shall take an oath of office as prescribed in § 49-1 before entering the duties of his office.
6 The oath of office shall be taken before any general district or circuit court judge in any city or county that has established
7 services for the judicial system pursuant to this article.

8 **DRAFTING NOTE:** Technical corrections only.

9 | ~~§ 53.1-183~~ 9.1-178. Community criminal justice boards.

10 Each county or city or combination thereof developing and establishing a community corrections program pursuant
11 | to ~~the provisions of this article~~ shall establish a community criminal justice board. Each county and city participating in a
12 community corrections program shall be represented on the community criminal justice board. In the event that one county or
13 city appropriates funds to the program as part of a multijurisdictional effort, any other participating county or city shall be
14 considered to be participating in a program if such locality appropriates funds to the program. Appointments to the board shall
15 be made by each local governing body. In cases of multijurisdictional participation, unless otherwise agreed upon, each
16 participating city or county shall have an equal number of appointments. Boards shall be limited to fifteen members, except in
17 cases of multijurisdictional boards which shall be limited to twenty members. Each board shall include the following: a judge
18 of the general district court; a circuit court judge; a juvenile and domestic relations district court judge; a chief magistrate; one
19 chief of police or the sheriff in a jurisdiction not served by a police department to represent law enforcement; an attorney for
20 the Commonwealth; a public defender or an attorney who is experienced in the defense of criminal matters; a sheriff or the
21 regional jail administrator responsible for jails serving those jurisdictions involved in the community-based corrections
22 program; a local educator; and a community services board administrator.

23 **DRAFTING NOTE:** Technical corrections only.

24 | ~~§ 53.1-184~~ 9.1-179. Withdrawal from program.

25 Any participating city or county may, at the beginning of any calendar quarter, by ordinance or resolution of its
26 governing ~~authority body~~, notify the Director of the Department of ~~Criminal Justice Services~~ of its intention to withdraw fr
27 the community corrections program. ~~Such withdrawal~~ Withdrawal shall be effective as of the last day of the quarter in wh
28 ~~such the~~ notice is given.

29 **DRAFTING NOTE:** Technical corrections only.

30 | ~~§ 53.1-185~~ 9.1-180. Responsibilities of community criminal justice boards.

31 On behalf of the counties, cities, or combinations thereof which they represent, the community criminal justice
32 boards shall have the responsibility to:

33 1. Provide for the purchase, development and operation of community programs, services, and facilities for use by
34 the courts in diverting offenders from local correctional facility placements;

35 2. Assist community agencies and organizations in establishing and modifying programs and services for offenders
36 on the basis of an objective assessment of the community's needs and resources;

37 3. Evaluate and monitor community programs, services and facilities to determine their impact on offenders;

38 4. Develop and amend the community corrections plan in accordance with guidelines and standards set forth by the
39 | Department of ~~Criminal Justice Services~~ for approval by participating local governing bodies; and

40 5. Do all things necessary or convenient to carry out the responsibilities expressly given in this article.

41 **DRAFTING NOTE:** Technical corrections only.

42 | ~~§ 53.1-185.1~~ 9.1-181. Eligibility to participate.

43 A. Any city, county, or combination thereof, which elects to, or is required to establish programs shall participate in a
44 local community-based probation program by ordinance or resolution of its governing authority. In cases of multijurisdictional
45 participation, each ordinance or resolution shall identify the chosen administrator and fiscal agent as set forth in § 53.1-185.3.
46 | Such ordinances or resolutions shall be provided to the Director of the Department of ~~Criminal Justice Services~~, regardless of
47 funding source for the established programs.

48 B. Any local community-based probation program established pursuant to this article shall be available as a
49 sentencing alternative for persons sentenced to incarceration in a local correctional facility or who otherwise would be
50 sentenced to incarceration and who would have served their sentence in a local or regional correctional facility.

51 **DRAFTING NOTE:** Technical corrections only.

1 §-53.1-185.2 9.1-182. Funding; failure to comply; prohibited use of funds.

2 A. Counties and cities shall be required to establish a local community-based probation program under this article
3 only to the extent funded by the Commonwealth through the general appropriation act.

4 B. The Department of ~~Criminal Justice Services~~ shall periodically review each program established under this article
5 to determine compliance with the submitted plan and operating standards. If the Department of ~~Criminal Justice Services~~
6 determines that a program is not in substantial compliance with the submitted plan or standards, the Department of ~~Criminal~~
7 ~~Justice Services~~ may suspend all or any portion of financial aid made available to the locality for purposes of this article until
8 there is compliance.

9 C. Funding shall be used for the provision of services and operation of programs and facilities but shall not be used
10 for capital expenditures.

11 D. The Department of ~~Criminal Justice Services~~, in conjunction with local boards, shall establish a statewide system
12 of supervision and intervention fees to be paid by offenders participating in programs established under this article for
13 reimbursement towards the costs of their supervision.

14 E. Any supervision or intervention fees collected by local programs established under this article shall be retained by
15 the locality serving as fiscal agent and shall be utilized solely for program expansion and program development, or to
16 supplant local costs of the program operation. Any program collecting such fees shall keep records of the collected fees,
17 report the amounts to the locality serving as fiscal agent and make all records available to the community criminal justice
18 board. Such fees shall be in addition to any other imposed on a defendant or offender as a condition of a deferred
19 proceeding, conviction or sentencing by a court as required by general law.

20 **DRAFTING NOTE:** Technical corrections only.

21 §-53.1-185.3 9.1-183. City or county to act as administrator and fiscal agent.

22 Any single participating city or county shall act as the administrator and fiscal agent for the funds awarded for
23 purposes of implementing a local pretrial services or community-based probation program. In cases of multijurisdictional
24 participation, the governing authorities of the participating localities shall select one of the participating cities or counties, with
25 its consent, to act as administrator and fiscal agent for the funds awarded for purposes of implementing the local pretrial
26 services or community-based probation program on behalf of the participating jurisdictions.

27 The participating city or county acting as administrator and fiscal agent pursuant to this section may be reimbursed
28 for the actual costs associated with the implementation of the local pretrial services or community-based probation program,
29 including fiscal administration, accounting, payroll services, financial reporting, and auditing. Any costs must be approved by
30 the community criminal justice board and reimbursed from those funds received for the operation of the local community-
31 based probation program, and may not exceed one percent of those funds received in any single fiscal year.

32 **DRAFTING NOTE:** Technical corrections only.

33 Article 10.

34 Virginia Center for School Safety.

35 §-9-173.24 9.1-184. Virginia Center for School Safety created; duties.

36 A. From such funds as may be appropriated, the Virginia Center for School Safety (the "Center") is hereby
37 established within the Department of ~~Criminal Justice Services~~ and shall be referred to in this section as the Center. The
38 Center shall:

39 1. Provide training for Virginia public school personnel in school safety and the effective identification of students
40 who may be at risk for violent behavior and in need of special services or assistance;

41 2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring
42 workshops, and providing information regarding current school safety concerns, such as conflict management and peer
43 mediation, school facility design and technology, current state and federal statutory and regulatory school safety
44 requirements, and legal and constitutional issues regarding school safety and individual rights;

45 3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and
46 across the nation;

47 4. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information,
48 collected by the Department;

49 5. Encourage the development of partnerships between the public and private sectors to promote school safety in
50 Virginia;

51 6. Provide technical assistance to Virginia school divisions in the implementation of initiatives promoting school
52 safety; and

1 7. Develop a memorandum of understanding between the Commissioner of the Department of Criminal Justice
2 Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in
3 areas of mutual concern, such as school safety audits and crime prevention.

4 B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the
5 performance of its duties and responsibilities.

6 **DRAFTING NOTE:** Technical corrections only.

7 CHAPTER 2.

8 DEPARTMENT OF FIRE PROGRAMS.

9 ~~§ 9-153~~ 9.1-200. ~~Virginia State Fire Services Commission redesignated~~ Department of Fire Programs.

10 A. ~~The Virginia State Fire Services Commission, created pursuant to Chapter 606 of the Acts of Assembly of 1978, is~~
11 ~~heroby continued and redesignated the~~ There is created a Department of Fire Programs that shall be headed by a Director
12 who shall be appointed by the Governor to serve at his pleasure. The Department shall be the designated state agency to
13 receive and disburse any funds available to the Commonwealth under the Federal Fire Prevention and Control Act (P. L. 93-
14 498).

15 B. ~~Wherever in this Code or in any other law of the Commonwealth the term Virginia State Fire Services Commission~~
16 ~~is used, it shall be taken to mean the Department of Fire Programs, hereinafter referred to as "the Department."~~

17 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of existing §§ 9-153 and 9-154. Language
18 shown as stricken has been deleted as obsolete.

19 ~~§ 9-154~~ 9.1-201. ~~Executive Powers of Executive Director; powers.~~

20 A. ~~The Governor shall appoint an Executive Director of the Department, subject to confirmation by the General~~
21 ~~Assembly. The Executive Director shall hold his position at the pleasure of the Governor.~~

22 B. ~~The Executive Director shall have the following powers to:~~

23 1. ~~To supervise~~ Supervise the administration of the Department;

24 2. ~~To prepare~~ Prepare, approve, and submit all requests for appropriations and be responsible for all expenditures
25 pursuant to appropriations;

26 3. ~~To employ~~ Employ such staff as is necessary to carry out the powers and duties of this chapter, within the limits of
27 available appropriations;

28 4. ~~To accept~~ Accept on behalf of the Department grants from the United States government and agencies and
29 instrumentalities thereof and any other sources. To these ends, the Executive Director shall have the power to execute such
30 agreements in accordance with the policies of the Virginia Fire Services Board;

31 5. ~~To do~~ Do all acts necessary or convenient to carry out the purpose of this chapter and to assist the Board in
32 carrying out its responsibilities and duties;

33 6. ~~To make~~ Make and enter into all contracts and agreements necessary or incidental to the performance of its
34 duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other
35 states, and agencies and governmental subdivisions of the Commonwealth;

36 7. ~~To appoint~~ Appoint a director of fire services training; and

37 8. ~~To receive~~ Receive funds as appropriated by the General Assembly collected pursuant to § 38.2-401, on an
38 annual basis to be used as provided in subsection C of § 38.2-401.

39 **DRAFTING NOTE:** Technical corrections. Existing subsection A now appears in proposed § 9.1-200 supra.

40 ~~§ 9-153.4~~ 9.1-202. ~~Virginia Fire Services Board; membership; terms; expenses; officers compensation.~~

41 A. The Virginia Fire Services Board within the Department of Fire Programs (the "Board") is established as a policy
42 board within the meaning of § 2.2-2100 in the executive branch of state government. The Board shall consist of fifteen
43 members. Subject to confirmation by the General Assembly, the Governor shall appoint to the Board the following persons to
44 be appointed by the Governor as follows: a representative of the insurance industry; two members of the general public with
45 no connection to the fire services, one of which whom shall be a representative of those industries affected by SARA Title III
46 and OSHA training requirements; and a one representative each from ~~each of the following organizations:~~ the State Fire
47 Chiefs Association of Virginia, the Virginia Firemen's Association, the Virginia Association of Professional Firefighters, the
48 Virginia Fire Service Council, the Virginia Fire Prevention Association, the State Chapter of the International Association of
49 Arson Investigators, the Virginia Municipal League, and the Virginia Association of Counties, and a member of the Virginia
50 Chapter of the International Society of Fire Service Instructors who is a faculty member who teaches fire science at a state
51 public institution of higher learning education. Of these appointees, at least one shall be a volunteer firefighter. ~~In addition to~~
52 ~~the gubernatorial appointees, the following persons shall be members of the Board: the~~ The State Fire Marshal, the State

Forester and a member of the Board of Housing and Community Development, ~~to be appointed by the chairman of that Board shall also serve as members of the Board.~~

Each of the organizations represented shall submit names for the Governor's consideration in making these appointments.

~~The members~~ B. Members of the Board appointed by the Governor shall serve for terms of four years. An appointment to fill a vacancy shall be for the unexpired term. No appointee shall serve more than two successive four-year terms but neither shall any person serve beyond the time he holds the office or organizational membership by reason of which he was initially eligible for appointment. ~~The members of the Board shall be paid their necessary expenses incurred in the discharge of their duties.~~

C. The Board annually shall elect its chairman and vice-chairman from among its membership and shall adopt rules of procedure.

D. Members of the Board shall not be entitled to compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

DRAFTING NOTE: Technical corrections only.

~~§ 9-155~~ 9.1-203. Powers and duties of Virginia Fire Services Board; limitation.

A. ~~The Virginia Fire Services Board~~ shall have the responsibility for promoting the coordination of the efforts of fire service organizations at the state and local levels. To these ends, it shall have the following powers and duties to:

1. ~~To establish~~ Establish a process, involving state and local agencies, public and private, for setting priorities for implementing the Virginia Fire Prevention and Control Plan and coordinating the activities of state and local agencies, public and private, in implementing the Plan;

2. ~~To develop~~ Develop a five-year statewide plan for fire education and training;

3. ~~To establish~~ Establish criteria for the disbursement of any grant funds received from the federal government and any agencies thereof and any other source and to disburse such funds in accordance therewith;

4. ~~To provide~~ Provide technical assistance and advice to local fire departments, other fire services organizations, and local governments;

5. ~~To develop~~ Develop and recommend personnel standards for fire services personnel;

6. ~~To develop~~ Develop and implement a statewide plan for the collection, analysis and reporting of data relating to fires in the Commonwealth, utilizing appropriate resources of other state agencies when deemed proper by the Board;

7. ~~To make~~ Make recommendations to the Governor and General Assembly concerning legislation affecting fire prevention and protection and fire services organizations in Virginia;

8. ~~To evaluate~~ Evaluate all state programs or functions which have a bearing on fire prevention and protection and to make to the appropriate government officials any recommendations deemed necessary to improve the level of fire prevention and protection in the Commonwealth;

9. ~~To provide~~ Provide training and information to localities relative to the Statewide Fire Prevention Code;

10. ~~To study~~ Study and develop alternative means of providing financial support for volunteer fire departments and to make appropriate recommendations regarding the implementation of such alternatives;

11. ~~To conduct~~ Conduct training schools for fire service personnel in various areas of the Commonwealth; and

12. ~~To render~~ Render assistance to local fire departments and volunteer fire companies in training fire fighters.

B. Except for those policies established in § 38.2-401, compliance with the provisions of ~~§ 9-154~~ 9.1-201 and this section and any policies or guidelines enacted pursuant thereto shall be optional with, and at the full discretion of, any local governing body and any volunteer fire department or volunteer fire departments operating under the same corporate charters.

DRAFTING NOTE: Technical corrections only.

~~§ 9-155.1~~ 9.1-204. Fire service training facilities; allocation of funds therefor.

A. At the beginning of each fiscal year, the Board may allocate available funds to counties, cities, and towns within the Commonwealth for the purpose of assisting such counties, cities, towns and volunteer fire companies in the construction, improvement or expansion of fire service training facilities.

B. Available funds shall be allocated at the discretion of the Board, based upon the following:

1. The total amount of funds available for distribution;

2. Financial participation by counties, cities, towns and volunteer fire companies, any such participation being optional on the part of the locality or the particular volunteer fire company;

3. Anticipated use of such facilities by the Commonwealth, its subdivisions or volunteer fire companies.

1 C. Such funds shall be distributed to the counties, cities, and towns pursuant to contracts prepared by the office
2 Attorney General.

3 D. Allocations of such funds to volunteer fire companies shall not be contingent upon or conditioned in any way upon
4 compliance with the provisions of ~~§ 9-154~~ 9.1-201 or with any rules, regulations, or guidelines enacted pursuant to the
5 provisions of ~~§ 9-154~~ 9.1-201.

6 **DRAFTING NOTE:** Technical corrections only.

7 ~~§ 9-155.2. Commission and Office of Fire Services Training combined as Department of Fire Programs.~~

8 ~~Excluding all appointed positions, the Office of Fire Services Training shall be combined as a unit with the Virginia~~
9 ~~State Fire Services Commission to form the Department of Fire Programs.~~

10 **DRAFTING NOTE:** Technical corrections. This section has been deleted as obsolete. It was originally enacted pursuant to
11 Chapter 154 of the 1981 Acts of Assembly.

12 CHAPTER 3.

13 FIREFIGHTERS AND EMERGENCY MEDICAL TECHNICIANS

14 PROCEDURAL GUARANTEE ACT.

15 ~~§ 2-1-116.0-4~~ 9.1-300. Definitions.

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

17 "Emergency medical technician" means any person who is employed solely within the fire department or public
18 safety department of an employing agency as a full-time emergency medical technician whose primary responsibility is the
19 provision of emergency care to the sick and injured, using either basic or advanced techniques. Emergency medical
20 technicians may also provide fire protection services and assist in the enforcement of the fire prevention code.

21 "Employing agency" means any municipality of the Commonwealth or any political subdivision thereof, including
22 authorities and special districts, which employs firefighters and emergency medical technicians.

23 "Firefighter" means any person who is employed solely within the fire department or public safety department of an
24 employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires, the
25 protection of life and property, and the enforcement of local and state fire prevention codes and laws pertaining to the
26 prevention and control of fires.

27 "Interrogation" means any questioning of a formal nature as used in Chapter ~~10-1, Law Enforcement Officer's~~
28 ~~Procedural Guarantees, § 2-1-116.2 4~~ (§ 9.1-500 et seq.) of this title, that could lead to dismissal, demotion, or suspension for
29 punitive reasons of a firefighter or emergency medical technician.

30 **DRAFTING NOTE:** Technical corrections. This section was relocated to this title from Title 2.1.

31 ~~§ 2-1-116.0-2~~ 9.1-301. Conduct of interrogation.

32 The ~~following~~ provisions of this section shall apply whenever a firefighter or emergency medical technician is
33 subjected to an interrogation which could lead to dismissal, demotion or suspension for punitive reasons:

34 1. The interrogation shall take place at the facility where the investigating officer is assigned, or at the facility which
35 has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating
36 officer.

37 2. No firefighter or emergency medical technician shall be subjected to interrogation without first receiving written
38 notice of sufficient detail of the investigation in order to reasonably apprise the firefighter or emergency medical technician of
39 the nature of the investigation.

40 3. All interrogations shall be conducted at a reasonable time of day, preferably when the firefighter or emergency
41 medical technician is on duty, unless the ~~importance of the interrogation or investigation is~~ matters being investigated are of
42 such a nature that immediate action is required.

43 4. The firefighter or emergency medical technician under investigation shall be informed of the name, rank, and unit
44 or command of the officer in charge of the investigation, the interrogators, and all persons present during any interrogation.

45 5. Interrogation sessions shall be of reasonable duration and the firefighter or emergency medical technician shall be
46 permitted reasonable periods for rest and personal necessities.

47 6. The firefighter or emergency medical technician being interrogated shall not be subjected to offensive language or
48 offered any incentive as an inducement to answer any questions.

49 7. If a recording of any interrogation is made, and if a transcript of ~~such the~~ interrogation is made, the firefighter or
50 emergency medical technician under investigation shall be entitled to a copy without charge. Such record may be
51 electronically recorded.

1 8. No firefighter or emergency medical technician shall be discharged, disciplined, demoted, denied promotion or
2 seniority, or otherwise disciplined or discriminated against in regard to his employment, or be threatened with any such
3 treatment as retaliation for ~~or by reason solely of~~ his exercise of any of the rights granted or protected by this chapter.

4 **DRAFTING NOTE:** Technical corrections. This section was relocated to this title from Title 2.1.

5 ~~§ 2-1-146.0:5~~ 9.1-302. Breach of procedures.

6 Any breach of the procedures required by this chapter shall not exclude any evidence from being presented in any
7 case against a firefighter or emergency medical technician and shall not cause any charge to be dismissed unless the
8 firefighter or emergency medical technician demonstrates that the breach prejudiced his case.

9 **DRAFTING NOTE:** Technical corrections. This section was relocated to this title from Title 2.1.

10 ~~§ 2-1-146.0:3~~ 9.1-303. Informal counseling not prohibited.

11 Nothing in this chapter shall be construed to prohibit the informal counseling of a firefighter or emergency medical
12 technician by a supervisor in reference to a minor infraction of policy or procedure which does not result in disciplinary action
13 being taken against the firefighter or emergency medical technician.

14 **DRAFTING NOTE:** Technical corrections. This section was relocated to this title from Title 2.1.

15 ~~§ 2-1-146.0:4~~ 9.1-304. Rights nonexclusive.

16 The rights of firefighters and emergency medical technicians as set forth in this chapter shall not be construed to
17 diminish the rights and privileges of firefighters or emergency medical technicians that are guaranteed to all citizens by the
18 Constitution and laws of the United States and the Commonwealth of Virginia or limit the granting of broader rights by other
19 law, ordinance or rule.

20 This section shall not abridge or expand the rights of firefighters or emergency medical technicians to bring civil suits
21 for injuries suffered in the course of their employment as recognized by the courts, nor is it designed to abrogate any common
22 law or statutory limitation on the rights of recovery.

23 **DRAFTING NOTE:** Technical corrections. This section was relocated to this title from Title 2.1.

24 CHAPTER 4.

25 LINE OF DUTY ACT.

26 ~~§ 2-1-133.5~~ 9.1-400. Title of chapter; definitions.

27 A. This chapter shall be known and designated as the Line of Duty Act.

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

29 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a
30 deceased person if testate, or as his heirs at law if intestate.

31 "Deceased person" means any individual whose death occurs on or after April 8, 1972, as the direct or proximate
32 result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a
33 law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1;
34 a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the
35 City of Richmond; a member of any fire company or department or rescue squad that has been recognized by an ordinance
36 or a resolution of the governing body of any county, city or town of the Commonwealth as an integral part of the official safety
37 program of such county, city or town; a member of the Virginia National Guard or the Virginia State Defense Force while such
38 member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty
39 under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any agent,
40 investigator, or inspector vested with the power to arrest pursuant to § 56-334; any regular or special game warden who
41 receives compensation from a county, city or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-
42 200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the
43 Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency
44 Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team
45 member; or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-
46 115.

47 "Disabled person" means any individual who, as the direct or proximate result of the performance of his duty in any
48 position listed in the definition of deceased person in this section, has become mentally or physically incapacitated so as to
49 prevent the further performance of duty where such incapacity is likely to be permanent.

50 "Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule,
51 regulation, condition of employment or service, or law.

1 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
2 A is § 2.1-133.5 and subsection B is § 2.1-133.6. The definitions of "deceased" and "disabled" have been changed to
3 "deceased person" and "disabled person" for clarification.

4 ~~§ 2.1-133.6. (Effective July 1, 2000) Definitions.~~

5 For the purposes of this chapter the following words shall have the following meanings:

6 "Beneficiary" means the spouse of the deceased and such person or persons as are entitled to take under the will of
7 the deceased if testate, or as his heir at law if intestate.

8 "Deceased" means any person whose death occurs on or after April 8, 1972, as the direct or proximate result of the
9 performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a law-
10 enforcement officer of this Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a
11 jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the
12 City of Richmond; a member of any fire company or department or rescue squad which has been recognized by an ordinance
13 or a resolution of the governing body of any county, city or town of this Commonwealth as an integral part of the official safety
14 program of such county, city or town; a member of the Virginia National Guard or the Virginia State Defense Force while such
15 member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty
16 under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any agent,
17 investigator, or inspector vested with the power to arrest pursuant to § 56-334; any regular or special game warden who
18 receives compensation from a county, city or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-
19 200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the
20 Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-000; any Department of Emergency
21 Services hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; or
22 any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

23 "Disabled employee" means any person who, as the direct or proximate result of the performance of his duty in any
24 position listed in the definition of deceased in this section, has become mentally or physically incapacitated so as to prevent
25 the further performance of duty where such incapacity is likely to be permanent.

26 "Line of duty" means any action the deceased or disabled employee was obligated or authorized to perform by rule,
27 regulation, condition of employment or service, or law.

28 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 9.1-400.

29 ~~§ 2.1-133.7:4 9.1-401. (Effective July 1, 2000) Continued health insurance coverage for disabled employees~~
30 ~~persons~~, their spouses and dependents, and for the surviving spouse and dependents of certain deceased law-enforcement
31 officers, firefighters, etc.

32 A. ~~If the deceased's death: (i) occurred while in the line of duty as the direct or proximate result of the performance of~~
33 ~~his duty or (ii) was subject to the provisions of §§ 27-40.1, 27-40.2, 51.1-813 or § 65.2-402, and arose out of and in the~~
34 ~~course of his employment, his~~ The surviving spouse and any dependents of a deceased person shall be afforded continued
35 health insurance coverage. ~~The, the cost of such health insurance coverage which shall be paid in full out of the general fund~~
36 ~~of the state treasury.~~

37 B. If the disabled ~~employee's person's~~ disability: (i) occurred while in the line of duty as the direct or proximate result
38 of the performance of his duty or (ii) was subject to the provisions of §§ 27-40.1, 27-40.2, 51.1-813 or § 65.2-402, and arose
39 out of and in the course of his employment, the disabled ~~employee person~~, his surviving spouse and any dependents shall be
40 afforded continued health insurance coverage. The cost of such health insurance coverage shall be paid in full out of the
41 general fund of the state treasury.

42 C. The continued health insurance coverage provided by this section shall be the same plan of benefits which the
43 deceased or disabled ~~employee person~~ was entitled to on the last day of his active duty or comparable benefits established
44 as a result of a replacement plan.

45 D. For any spouse, continued health insurance provided by this section shall terminate upon such spouse's death or
46 coverage by alternate health insurance.

47 E. For dependents, continued health insurance provided by this section shall terminate upon such dependent's
48 death, marriage, coverage by alternate health insurance or twenty-first birthday. Continued health care insurance shall be
49 provided beyond the dependent's twenty-first birthday if the dependent is a full-time college student and shall continue until
50 such time as the dependent ceases to be a full-time student or reaches his twenty-fifth birthday, whichever occurs first.
51 Continued health care insurance shall also be provided beyond the dependent's twenty-first birthday if the dependent is
52 mentally or physically disabled, and such coverage shall continue until three months following the cessation of the disability.

53 F. For any disabled ~~employee person~~, continued health insurance provided by this section shall automatically
54 terminate upon the disabled ~~employee's person's~~ death, recovery or return to full duty in any position listed in the definition of
55 deceased person in § 2.1-133.6 9.1-400.

2 **DRAFTING NOTE:** Technical corrections only. The language shown as stricken in subsection A has been deleted as unnecessary since it is covered in the definition of "deceased person."

3 § ~~2-1-133.7~~ 9.1-402. Payments to beneficiaries of certain deceased law-enforcement officers, firefighters, etc., and
4 retirees.

5 A. ~~If the deceased's death occurred while in the line of duty as the direct or proximate result of the performance of~~
6 ~~his duty, his~~ The beneficiary of a deceased person shall be entitled to receive the sum of \$-75,000, which shall be payable out
7 of the general fund of the state treasury, in gratitude for and in recognition of his sacrifice on behalf of the people of ~~this the~~
8 Commonwealth.

9 B. Subject to the provisions of §§ 27-40.1, 27-40.2, 51.1-813, or § 65.2-402, if the ~~deceased's~~ deceased person's
10 death ~~(a)(i)~~ arose out of and in the course of his employment or ~~(b)(ii)~~ was within five years from his date of retirement, his
11 beneficiary shall be entitled to receive the sum of \$25,000, which shall be payable out of the general fund of the state
12 treasury.

13 **DRAFTING NOTE:** Technical corrections only. The language shown as stricken in subsection A has been deleted as
14 unnecessary since it is covered in the definition of "deceased person."

15 § ~~2-1-133.8~~ 9.1-403. (Effective July 1, 2000) Claim for payment.

16 Every beneficiary, disabled ~~employee person~~ or his spouse, or dependent of a deceased ~~or disabled employee~~
17 ~~hereunder person~~ shall present his claim to the chief officer, or his designee, of the appropriate division or department ~~which~~
18 ~~that~~ last employed the deceased or disabled ~~employee person~~ on forms to be provided by the State Comptroller's office. ~~Such~~
19 The chief officer or his designee shall submit a request to the Superintendent of the Department of the State Police, who shall
20 investigate and report upon the circumstances surrounding the deceased or disabled ~~employee person~~, calling upon the
21 additional information and services of any other appropriate agents or agencies of the Commonwealth. The chief officer, or
22 his designee, shall report his findings to the Comptroller within forty-five days of receipt of a claim.

23 **DRAFTING NOTE:** Technical corrections only.

24 § ~~2-1-133.9~~ 9.1-404. (Effective July 1, 2000) Order of Comptroller.

25 A. If it appears to the Comptroller that the requirements of either subsection A or B of § ~~2-1-133.7~~ 9.1-402 have been
26 satisfied, he shall issue his warrant in the appropriate amount for payment out of the general fund of the state treasury to the
27 surviving spouse or to such persons and subject to such conditions as may be proper in his administrative discretion, and in
28 the event there is no beneficiary, the Comptroller shall issue ~~such the~~ payment to the estate of the deceased person. The
29 Comptroller shall issue a decision, and payment, if appropriate, shall be made no later than forty-five days following receipt of
30 the report required under § ~~2-1-133.8~~ 9.1-403.

31 B. If it appears to the Comptroller that the requirements of either subsection A or B of § ~~2-1-133.7~~ 9.1-401 have
32 been satisfied, he shall issue his warrants in the appropriate amounts for payment from the general fund of the state treasury
33 to ensure continued health care coverage for the persons designated under § ~~2-1-133.7~~ 9.1-401. The Comptroller shall
34 issue a decision, and payments, if appropriate, shall commence no later than forty-five days following receipt of the report
35 required under § ~~2-1-133.8~~ 9.1-403. ~~Such~~ The payments shall be retroactive to the first date that ~~such the~~ disability existed.

36 **DRAFTING NOTE:** Technical corrections only.

37 § ~~2-1-133.10~~ 9.1-405. (Effective July 1, 2000) Appeal from decision of Comptroller.

38 Any beneficiary, disabled ~~employee person~~ or his spouse or dependent of a deceased or disabled ~~employee person~~
39 aggrieved by the decision of the Comptroller shall present a petition to the court in which the will of the deceased person is
40 probated or in which the personal representative of the deceased person is qualified or might qualify or in the jurisdiction in
41 which the disabled ~~employee person~~ resides.

42 The Commonwealth shall be represented in such proceeding by the Attorney General or his designee. The court
43 shall proceed as chancellor without a jury. If it appears to the court that the requirements of this chapter have been satisfied,
44 the judge shall enter an order to that effect. The order shall also direct the Comptroller to issue his warrant in the appropriate
45 amount for the payment out of the general fund of the state treasury to such persons and subject to such conditions as may
46 be proper. If, in the case of a deceased person, there is no beneficiary, the judge shall direct such payment as is due under §
47 ~~2-1-133.7~~ 9.1-402 to the estate of the deceased person.

48 **DRAFTING NOTE:** Technical corrections only.

49 § ~~2-1-133.14~~ 9.1-406. Appeals.

50 Appeals from judgments entered pursuant to this chapter shall be allowed as in chancery matters generally.

DRAFTING NOTE: Technical corrections only.

1 CHAPTER 5.

2 LAW-ENFORCEMENT OFFICERS PROCEDURAL GUARANTEE ACT.

3 § ~~2-1-116.1~~ 9.1-500. Definitions.

4 As used in this chapter, ~~the following terms have the following meanings unless the context requires a different~~
5 meaning:

6 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources
7 Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries, the Department of Alcoholic Beverage
8 Control, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public
9 institution of higher education of the Commonwealth employing the law-enforcement officer.

10 ~~1.~~ "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the
11 Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary
12 officer of one of the following agencies:

13 ~~(a) The a.~~ the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission,
14 the Virginia Port Authority, ~~the Department of Game and Inland Fisheries,~~ the Department of Alcoholic Beverage Control, or
15 the Department of Motor Vehicles; ~~or~~

16 ~~(b) b.~~ The police department, bureau or force of any political subdivision or the campus police department of any
17 public institution of higher education of the Commonwealth of Virginia where such department, bureau or force has ten or
18 more law-enforcement officers; ~~however, this shall not include the sheriff's department of any city or county, or~~

19 ~~This term also means any c.~~ Any game warden as defined in § ~~9-169 (9)~~ 9.1-101.

20 2. "Agency" means:

21 ~~(a) The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the~~
22 ~~Virginia Port Authority, the Department of Alcoholic Beverage Control, or the Department of Motor Vehicles; or~~

23 ~~(b) The political subdivision or the campus police department of any public institution of higher education of the~~
24 ~~Commonwealth of Virginia employing the law-enforcement officer.~~

25 For the purposes of this chapter, "law-enforcement officer" shall not include the sheriff's department of any city or
26 county.

27 **DRAFTING NOTE:** Technical corrections. The Department of Game and Inland Fisheries has been included for clarification
28 based on § 29.1-205, which grants to game wardens the power to make arrests.

29 § ~~2-1-116.2~~ 9.1-501. Conduct of investigation.

30 ~~Whenever~~ The provisions of this section shall apply whenever an investigation by an agency focuses on matters
31 which could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law-enforcement officer, ~~the~~
32 ~~following conditions shall be complied with:~~

33 1. Any questioning of the officer shall take place at a reasonable time and place as designated by the investigating
34 officer, preferably when the officer under investigation is on duty and at the office of the command of the investigating officer
35 or at the office of the local precinct or police unit of the officer being investigated, ~~unless circumstances dictate otherwise~~
36 matters being investigated are of such a nature that immediate action is required.

37 2. Prior to the officer being questioned, he shall be informed of (i) the name and rank of the investigating officer and
38 of any individual to be present during the questioning and (ii) the nature of the investigation.

39 3. When a blood or urine specimen is taken from a law-enforcement officer for the purpose of determining whether
40 the officer has used drugs or alcohol, the specimen shall be divided and placed into two separate containers. One specimen
41 shall be tested while the other is held in a proper manner to preserve the specimen by the facility collecting or testing the
42 specimen. Should the first specimen test positive, the law-enforcement officer shall have the right to require the second
43 specimen be sent to a laboratory of his choice for independent testing in accordance generally with the procedures set forth
44 in §§ 18.2-268.1 through 18.2-268.12. The officer shall notify the chief of his agency in writing of his request within ten days of
45 being notified of positive specimen results. The laboratory chosen by the officer shall be on the approved list of the Division
46 of Forensic Science.

47 **DRAFTING NOTE:** Technical corrections. Language substituted in subdivision 1 has been done to conform it to like
48 provisions in the Firefighters and Emergency Medical Technicians Procedural Guarantee Act.

49 § ~~2-1-116.4~~ 9.1-502. Notice of charges; response; election to proceed under grievance procedure of local governing
50 body.

51 A. Before any dismissal, demotion, suspension without pay or transfer for punitive reasons may be imposed, the
52 ~~following must be complied with~~ rights shall be afforded:

1 1. The law-enforcement officer shall be notified in writing of all charges, the basis therefor, and the action which may
2 be taken;

3 2. The law-enforcement officer ~~must~~ shall be given an opportunity, within a reasonable time limit after the date of the
4 written notice provided for above, to respond orally and in writing to the charges. The time limit shall be determined by the
5 agency, but in no event shall it be less than five calendar days unless agreed to by the law-enforcement officer;

6 3. In making his response, the law-enforcement officer may be assisted by counsel at his own expense; and

7 4. The law-enforcement officer shall be given written notification of his right to initiate a grievance under the
8 grievance procedure established by the local governing body pursuant to ~~§§ 15.1-7.4 15.2-1506 and 15.1-7.2 15.2-1507~~. A
9 copy of the local governing body's grievance procedure shall be provided to the law-enforcement officer upon his request.

10 B. A law-enforcement officer may proceed under either the local governing body's grievance procedure or the law-
11 enforcement officer's procedural guarantees, but not both.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2.1-116.3~~ 9.1-503. Personal assets of officers.

14 No law-enforcement officer shall be required or requested to disclose any item of his property, income, assets,
15 source of income, debts, or personal or domestic expenditures, including those of any member of his family or household,
16 unless (i) such information is necessary in investigating a possible conflict of interest with respect to the performance of his
17 official duties, ~~or unless (ii)~~ such disclosure is required by law, ~~or unless (iii)~~ such information is related to an investigation.
18 Nothing in this section shall preclude an agency from requiring such the law-enforcement officer to disclose any place of off-
19 duty employment and where he may be contacted.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 2.1-116.5~~ 9.1-504. Hearing; hearing panel recommendations.

22 4A. Whenever a law-enforcement officer is dismissed, demoted, suspended or transferred for punitive reasons, he
23 may, within a reasonable amount of time following such action, as set by the agency, request a hearing. If such request is
24 timely made, a hearing shall be held within a reasonable amount of time set by the agency; ~~provided, however, that~~
25 However, the hearing shall not be set ~~no~~ later than fourteen calendar days following the date of request unless a later date is
26 agreed to by the law-enforcement officer. At the hearing, the law-enforcement officer and his agency shall be afforded the
27 opportunity to present evidence, examine and cross-examine witnesses. ~~The panel shall have the power to, and on the~~
28 ~~request of either the law-enforcement officer or his agency shall, issue subpoenas requiring the testimony of witnesses who~~
29 ~~have refused or failed to appear at the hearing.~~ The law-enforcement officer shall also be given the opportunity to be
30 represented by counsel at the hearing unless such the officer and agency are afforded, by regulation, the right to counsel in a
31 subsequent de novo hearing. ~~The panel conducting the hearing shall rule on the admissibility of the evidence. A record shall~~
32 ~~be made of the hearing.~~

33 2B. The hearing shall be conducted by a panel, ~~such panel to consist~~ consisting of one member from within the
34 agency selected by the grievant, one member from within the agency of equal rank of the grievant but no more than two ranks
35 above appointed by the agency head, and a third member from within the agency to be selected by the other two members. In
36 the event that such two members cannot agree upon their selection, the chief judge of the judicial circuit wherein the duty
37 station of the grievant lies shall choose such third member. The hearing panel may, and on the request of either the law-
38 enforcement officer or his agency shall, issue subpoenas requiring the testimony of witnesses who have refused or failed to
39 appear at the hearing. The hearing panel shall rule on the admissibility of the evidence. A record shall be made of the
40 hearing.

41 3C. At the option of the agency, it may, in lieu of complying with the provisions of ~~§ 2.1-116.4~~ 9.1-502, give the law-
42 enforcement officer a statement, in writing, of the charges, the basis therefor, the action which may be taken, and provide a
43 hearing as provided for in this section prior to dismissing, demoting, suspending or transferring for punitive reasons the law-
44 enforcement officer.

45 D. The recommendations of the hearing panel, and the reasons therefor, shall be in writing and transmitted promptly
46 to the law-enforcement officer or his attorney and to the chief executive officer of the law-enforcement agency. Such
47 recommendations shall be advisory only, but shall be accorded significant weight.

48 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
49 A through C are § 2.1-116.5 and subsection D is § 2.1-116.7.

50 ~~§ 2.1-116.6~~ 9.1-505. Immediate suspension.

51 Nothing in this chapter shall prevent the immediate suspension without pay of any law-enforcement officer whose
52 continued presence on the job is deemed to be a substantial and immediate threat to the welfare of his agency or the public,
53 nor shall anything in this chapter prevent the suspension of a law-enforcement officer for refusing to obey a direct order
54 issued in conformance with the agency's written and disseminated ~~rules and~~ regulations. In such a case, the law-enforcement

1 officer shall, upon request, be afforded the rights provided for under this chapter within a reasonable amount of time set by
2 the agency.

3 **DRAFTING NOTE:** Technical corrections only.

4 ~~§ 2.1-116.7. Outcome of hearing.~~

5 ~~The recommendations of the panel, and the reasons therefor, shall be in writing, shall be transmitted promptly to the~~
6 ~~law enforcement officer or his attorney and to the chief executive officer of the law enforcement agency. Such~~
7 ~~recommendations shall be advisory only, but shall be accorded significant weight.~~

8 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 9.1-504 supra.

9 ~~§ 2.1-116.8~~ 9.1-506. Informal counseling not prohibited.

10 Nothing in this chapter shall be construed to prohibit the informal counseling of a law-enforcement officer by a
11 supervisor in reference to a minor infraction of policy or procedure which does not result in disciplinary action being taken
12 against the law-enforcement officer.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2.1-116.9~~ 9.1-507. Chapter accords minimum rights.

15 The rights accorded law-enforcement officers in this chapter are minimum rights and all agencies shall promulgate
16 adopt grievance procedures not inconsistent herewith; provided that that are consistent with this chapter. However, any an
17 agency may provide for the additional rights of law-enforcement officers in addition hereto in its grievance procedure.

18 **DRAFTING NOTE:** Technical corrections only.

19 CHAPTER 6.

20 CIVILIAN PROTECTION IN CASES OF POLICE MISCONDUCT.

21 ~~§ 2.1-116.9-6~~ 9.1-600 Civilian protection in cases of police misconduct; minimum standards.

22 A. State, local, and other public law-enforcement agencies, which have ten or more law-enforcement officers, shall
23 have procedures as established in subsection B, allowing citizen submission of complaints regarding the conduct of the law-
24 enforcement agency, law-enforcement officers in the agency, or employees of the agency. ~~The provisions of this chapter~~
25 ~~shall not apply to constitutional officers.~~

26 B. Law-enforcement agencies shall ensure, at a minimum, that in the case of all written complaints:

- 27 1. The general public has access to the required forms and information concerning the submission of complaints;
28 2. The law-enforcement agency assists individuals in filing complaints; and
29 3. Adequate records are maintained of the nature and disposition of such cases.

30 C. The provisions of this chapter shall not apply to constitutional officers.

31 **DRAFTING NOTE:** Technical corrections only.

III. CHAPTERS RELOCATED

FROM TITLE 2.1 and TITLE 9 TO TITLE 30

The General Assembly Conflict of Interests Act, §§ 2.1-639.30 through 2.1-639.61.
Auditor of Public Accounts, §§ 2.1-153 through 2.1-172.1.
Virginia Code Commission, §§ 9-77.4 through 9-77.12.
Virginia State Crime Commission, §§ 9-125 through 9-138.
Joint Commission on Behavioral Health Care, §§ 9-390 through 9-394.
Joint Commission on Health Care, §§ 9-311 through 9-316.
Virginia Commission on Intergovernmental Cooperation, §§ 9-53 through 9-60.
Virginia Commission on Youth, §§ 9-292 through 9-296.
Virginia Freedom of Information Advisory Council, §§ 2.1-346.2 through 2.1-346.5.
Small Business Commission, §§ 9-336 through 9-339.
Virginia Chesapeake Bay Partnership Council, §§ 9-334, 9-335.
State Water Commission, §§ 9-145.8 through 9-145.10.
Virginia Coal and Energy Commission, §§ 9-145.1 through 9-145.4.
Commission on Early Childhood and Child Day Care Programs, § 9-291.1.
Dr. Martin Luther King, Jr. Memorial Commission, §§ 9-145.45

FROM TITLE 2.1 and TITLE 9 TO OTHER TITLES

To Title 3.1—Agriculture

Tobacco Indemnification and Community Revitalization Commission §§ 9-380 through 9-389

To Title 6.1—Banking

Saturday closing of banks (§ 2.1-23)

To Title 17.1—Supreme Court

Judicial Review and Inquiry Commission (§ 2.1-37 et seq.)

To Title 37.1—Mental Health

Mental Health, Mental Retardation and Substance Abuse Services Trust Fund (§§ 2.1-812 through 2.1-814)

Office of the Inspector General for Mental Health, Mental Retardation and Substance Assistance Services (§§ 2.1-815 through 2.1-817)

To Title 42.1—Libraries (State Librarian)

§§ 2.1-467.1, 2.1-467.7, 2.1-467.7, and 2.1-467.8--Annual listing; publication and distribution of catalog

To Title 51.1—Pensions, Benefits and Retirement

Health insurance credits for certain retirees (§§ 2.1-20.1:2 through 2.1-20.1:7)

1 SECTIONS RELOCATED FROM TITLES 2.1 AND 9 TO

2 TITLE 30—GENERAL ASSEMBLY.

3 CHAPTER 13.

4 GENERAL ASSEMBLY CONFLICTS OF INTERESTS ACT.

5 ~~§ 2-1-639.30~~ 30-100. Declaration of legislative policy; construction.

6 The General Assembly of Virginia, recognizing that our system of representative government is dependent in part
7 upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the
8 highest trust in their public officers, finds and declares that the citizens are entitled to be assured that the judgment of the
9 members of the General Assembly will not be compromised or affected by inappropriate conflicts.

10 This chapter shall apply to the members of the General Assembly.

11 This chapter shall be liberally construed to accomplish its purpose.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2-1-639.34~~ 30-101. Definitions.

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

15 "Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power
16 or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or
17 recommendations, or advising or consulting with a governmental agency.

18 "Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or
19 foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

20 "Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a
21 governmental agency which involves the payment of money appropriated by the General Assembly or a political subdivision,
22 whether or not such agreement is executed in the name of the Commonwealth of Virginia, or some political subdivision
23 thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the legislator's own governmental
24 agency.

25 "Financial institution" means any bank, trust company, savings institution, industrial loan association, consum
26 finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or adviso
27 registered under the federal Investment Advisors Act or Investment Company Act of 1940.

28 "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having
29 monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-
30 kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" shall not
31 include any offer of a ticket or other admission or pass unless the ticket, admission, or pass is used. "Gift" shall not include
32 honorary degrees and presents from relatives. For the purpose of this definition, "relative" means the donee's spouse, child,
33 uncle, aunt, niece, or nephew; a person to whom the donee is engaged to be married; the donee's or his spouse's parent,
34 grandparent, grandchild, brother, or sister; or the donee's brother's or sister's spouse.

35 "Governmental agency" means each component part of the legislative, executive or judicial branches of state and
36 local government, including each office, department, authority, post, commission, committee, and each institution or board
37 created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or
38 duties.

39 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household as the legislator,
40 who is a dependent of the legislator or of whom the legislator is a dependent. "Dependent" means a son, daughter, father,
41 mother, brother, sister or other person, whether or not related by blood or marriage, if such person receives from the
42 legislator, or provides to the legislator, more than one-half of his financial support.

43 "Legislator" means a member of the General Assembly of Virginia.

44 "Personal interest" means a financial benefit or liability accruing to a legislator or to a member of his immediate
45 family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the
46 total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$10,000 from
47 ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use
48 of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be anticipated to
49 exceed, \$10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$10,000 in value and excluding
50 ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; or (v)
51 personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the
52 business.

1 "Personal interest in a contract" means a personal interest which a legislator has in a contract with a governmental
2 agency, whether due to his being a party to the contract or due to a personal interest in a business which is a party to the
3 contract.

4 "Personal interest in a transaction" means a personal interest of a legislator in any matter considered by the General
5 Assembly. Such personal interest exists when an officer or employee or a member of his immediate family has a personal
6 interest in property or a business, or represents any individual or business and such property, business or represented
7 individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit
8 or detriment as a result of the action of the agency considering the transaction. A "personal interest in a transaction" exists
9 only if the legislator or member of his immediate family or an individual or business represented by the legislator is affected in
10 a way that is substantially different from the general public or from persons comprising a profession, occupation, trade,
11 business or other comparable and generally recognizable class or group of which he or the individual or business he
12 represents is a member.

13 "Transaction" means any matter considered by the General Assembly, whether in a committee, subcommittee, or
14 other entity of the General Assembly or before the General Assembly itself, on which official action is taken or contemplated.

15 **DRAFTING NOTE:** Technical corrections only.

16 Article 2.

17 Generally Prohibited and Unlawful Conduct.

18 § 2-1-630.32 30-102. Application.

19 This article applies to generally prohibited conduct which shall be unlawful.

20 **DRAFTING NOTE:** Technical corrections only.

21 § 2-1-630.33 30-103. Prohibited conduct.

22 No legislator shall:

23 1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except
24 the compensation, expenses or other remuneration paid to him by the General Assembly. This prohibition shall not apply to
25 the acceptance of special benefits which may be authorized by law;

26 2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or
27 promotion of any person with any governmental or advisory agency;

28 3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain
29 a contract for any person or business with any governmental or advisory agency;

30 4. Use for his own economic benefit or that of another party confidential information which he has acquired by
31 reason of his public position and which is not available to the public;

32 5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to
33 influence him in the performance of his official duties. This subdivision shall not apply to any political contribution actually
34 used for political campaign or constituent service purposes and reported as required by Chapter 9 (§ 24.2-900 et seq.) of Title
35 24.2;

36 6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the
37 opportunity is being afforded him to influence him in the performance of his official duties;

38 7. During the one year after the termination of his service as a legislator, represent a client or act in a representative
39 capacity on behalf of any person or group, for compensation, on any matter before the General Assembly or any agency of
40 the legislative branch of government. The prohibitions of this subdivision shall apply only to persons engaged in activities that
41 would require registration as a lobbyist under § 30-28.2. Any person subject to the provisions of this subdivision may apply to
42 the Attorney General, as provided in § 2-1-630.50 30-122, for an advisory opinion as to the application of the restriction
43 imposed by this subdivision on any post-public employment position or opportunity;

44 8. Accept any honoraria for any appearance, speech, or article in which the ~~officer or employee~~ legislator provides
45 expertise or opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for
46 or reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such
47 appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem
48 deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time;

49 9. Accept appointment to serve on a body or board of any corporation, company or other legal entity, vested with the
50 management of the corporation, company or entity, and on which two other members of the General Assembly already serve,
51 which is operated for profit and regulated by the State Corporation Commission as (i) a financial institution, (ii) a mortgage
52 lender or broker, (iii) any business under Chapter 5 (§ 13.1-501 et seq.) of Title 13.1, (iv) any business under Title 38.2, or (v)
53 any business under Title 56;

1 10. Accept a gift from a person who has interests that may be substantially affected by the performance of the
2 legislator's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to
3 question the legislator's impartiality in the matter affecting the donor. Violations of this subdivision shall not be subject to
4 criminal law penalties; or

5 11. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for
6 private gain. Violations of this subdivision shall not be subject to criminal law penalties.

7 **DRAFTING NOTE:** Technical corrections. In subdivision 8, "officer or employee" has been corrected to "legislator".

8 Article 3.

9 Prohibited Conduct Regarding Contracts.

10 ~~§ 2-1-630.34~~ 30-104. Application.

11 This article proscribes certain conduct relating to contracts.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2-1-630.35~~ 30-105. Prohibited contracts by legislators.

14 A. No legislator shall have a personal interest in a contract with the legislative branch of state government.

15 B. No legislator shall have a personal interest in a contract with any governmental agency of the executive or judicial
16 branches of state government, other than in a contract of regular employment, unless such contract is awarded as a result of
17 competitive sealed bidding or competitive negotiation as defined in ~~§ 44-37 2.2-4301~~.

18 C. No legislator shall have a personal interest in a contract with any governmental agency of local government, other
19 than in a contract of regular employment, unless such contract is (i) awarded as a result of competitive sealed bidding or
20 competitive negotiation as defined in ~~§ 44-37 2.2-4301~~ or is awarded as a result of a procedure embodying competitive
21 principles as authorized by ~~subsection D subdivision 10 or 11 of § 44-35 2.2-4343~~, or (ii) is awarded after a finding, in writing,
22 by the administrative head of the local governmental agency that competitive bidding or negotiation is contrary to the best
23 interest of the public.

24 D. The provisions of this section shall not ~~be applicable apply~~ to contracts for the sale by a governmental agency of
25 services or goods at uniform prices available to the general public.

26 E. The provisions of this section shall not ~~be applicable apply~~ to a legislator's personal interest in a contract between
27 a ~~state public~~ institution of higher education in Virginia and a publisher or wholesaler of textbooks or other educational
28 materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or
29 materials.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2-1-630.36~~ 30-106. Further exceptions.

32 A. The provisions of ~~§ 2-1-630.35~~ 30-105 shall not apply to:

33 1. The sale, lease or exchange of real property between a legislator and a governmental agency, provided the
34 legislator does not participate in any way as a legislator in such sale, lease or exchange, and this fact is set forth as a matter
35 of public record by the governing body of the governmental agency or by the administrative head thereof. The legislator shall
36 disclose any lease with a state governmental agency in his statement of economic interests as provided in ~~§ 2-1-630.44~~ 30-
37 111;

38 2. The publication of official notices;

39 3. A legislator whose sole personal interest in a contract with an agency of the legislative branch is by reason of
40 income from the contracting firm or General Assembly in excess of \$10,000 per year, provided the legislator or member of his
41 immediate family does not participate and has no authority to participate in the procurement or letting of ~~such the~~ contract on
42 behalf of the contracting firm and the legislator either does not have authority to participate in the procurement or letting of the
43 contract on behalf of the agency or he disqualifies himself as a matter of public record and does not participate on behalf of
44 the agency in negotiating the contract or in approving the contract;

45 4. Contracts between a legislator's governmental agency and a public service corporation, financial institution, or
46 company furnishing public utilities in which the legislator has a personal interest, provided he disqualifies himself as a matter
47 of public record and does not participate on behalf of the agency in negotiating the contract or in approving the contract;

48 5. Contracts for the purchase of goods or services when the contract does not exceed \$500; or

49 6. Grants or other payments under any program wherein uniform rates for, or the amounts paid to, all qualified
50 applicants are established solely by the administering governmental agency.

51 B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall
52 apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which

were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f)(4) of § 2.1-348 of Chapter 22 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of a legislator and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household, and the annual salary of such subordinate is \$15,000 or more.

DRAFTING NOTE: Technical corrections only.

Article 4.

Conduct Regarding Transactions.

§ ~~2.1-639.37~~ 30-107. Application.

This article relates to conduct by legislators having a personal interest in a transaction.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-639.38~~ 30-108. Prohibited conduct concerning personal interest in a transaction.

A legislator who has a personal interest in a transaction shall disqualify himself from participating in the transaction.

Unless otherwise prohibited by the rules of his house, the disqualification requirement of this section shall not prevent any legislator from participating in discussions and debates, provided (i) he verbally discloses the fact of his personal interest in the transaction at the outset of the discussion or debate or as soon as practicable thereafter and (ii) he does not vote on the transaction in which he has a personal interest.

DRAFTING NOTE: Technical corrections only.

Article 5.

Disclosure Statements Required to be Filed.

§ ~~2.1-639.39~~ 30-109. Application.

This article requires disclosure of certain personal and financial interests by legislators.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-639.40~~ 30-110. Disclosure.

A. Every legislator and legislator-elect shall file, as a condition to assuming office, a disclosure statement of his personal interests and such other information as is specified on the form set forth in § ~~2.1-639.41~~ 30-111 and thereafter shall file such a statement annually on or before January 8. Disclosure forms shall be provided by the clerk of the appropriate house to each legislator and legislator-elect not later than November 30 of each year. Members of the Senate of Virginia shall file their disclosure forms with the Clerk of the Senate and members of the House of Delegates shall file their disclosure forms with the Clerk of the House of Delegates. The disclosure forms of the members of the General Assembly shall be maintained as public records for five years in the office of the clerk of the appropriate house.

B. Candidates for the General Assembly shall file a disclosure statement of their personal interests as required by §§ 24.2-500 through 24.2-503.

C. Any legislator who has a personal interest in any transaction pending before the General Assembly and who is disqualified from participating in that transaction pursuant to § ~~2.1-639.38~~ 30-108 and the rules of his house shall disclose his interest in accordance with the applicable rule of his house.

DRAFTING NOTE: Technical corrections only.

§ ~~2.1-639.41~~ 30-111. Disclosure form.

A. The disclosure form to be used for filings required by subsections A and B of § 2.1-639.40 A and B 30-110 shall be substantially as follows:

STATEMENT OF ECONOMIC INTERESTS.

Name
Office or position held or sought
Home address
Names of members of immediate family

1
2 DEFINITIONS AND EXPLANATORY MATERIAL.
3

4 "Immediate family" means (i) a spouse and (ii) any other person
5 residing in the same household as the legislator, who is a dependent
6 of the legislator or of whom the legislator is a dependent.

7
8 "Dependent" means any person, whether or not related by blood or
9 marriage, who receives from the legislator, or provides to the
10 legislator, more than one-half of his financial support.

11
12 "Business" means a corporation, partnership, sole proprietorship,
13 firm, enterprise, franchise, association, trust or foundation, or
14 any other individual or entity carrying on a business or profession,
15 whether or not for profit.

16
17 "Close financial association" does not mean an association based
18 on the receipt of retirement benefits or deferred compensation from
19 a business by which the legislator is no longer employed. "Close
20 financial association" does not include an association based on the
21 receipt of compensation for work performed by the legislator as an
22 independent contractor of a business that represents an entity
23 before any state governmental agency when the legislator has had no
24 communications with the state governmental agency.

25
26 "Gift" means any gratuity, favor, discount, entertainment,
27 hospitality, loan, forbearance, or other item having monetary value.
28 It includes services as well as gifts of transportation, local
29 travel, lodgings and meals, whether provided in-kind, by purchase
30 of a ticket, payment in advance or reimbursement after the expense
31 has been incurred. "Gift" shall not include any offer of a ticket
32 or other admission or pass unless the ticket, admission, or pass is
33 used. "Gift" shall not include honorary degrees and presents from
34 relatives. "Relative" means the donee's spouse, child, uncle, aunt,
35 niece, or nephew; a person to whom the donee is engaged to be
36 married; the donee's or his spouse's parent, grandparent,
37 grandchild, brother, or sister; or the donee's brother's or
38 sister's spouse.

39
40 TRUST. If you or your immediate family, separately or together, are
41 the only beneficiaries of a trust, treat the trust's assets as if
42 you own them directly. If you or your immediate family has a
43 proportional interest in a trust, treat that proportion of the
44 trust's assets as if you own them directly. For example, if you
45 and your immediate family have a one-third interest in a trust,
46 complete your Statement as if you own one-third of each of the
47 trust's assets. If you or a member of your immediate family created
48 a trust and can revoke it without the beneficiaries' consent, treat
49 its assets as if you own them directly.

50
51 REPORT TO THE BEST OF INFORMATION AND BELIEF. Information required
52 on this Statement must be provided on the basis of the best
53 knowledge, information and belief of the individual filing the
54 Statement as of the date of this report unless otherwise stated.

55
56 COMPLETE ITEMS 1 THROUGH 10. REFER TO SCHEDULES ONLY IF DIRECTED.

57
58 You may attach additional explanatory information.

59
60 1. Offices and Directorships.

61 Are you or a member of your immediate family a paid officer or
62 paid director of a business?

1 EITHER check NO // OR check YES // and complete Schedule A.

2 2. Personal Liabilities.

3 Do you or a member of your immediate family owe more than

4 \$10,000 to any one creditor including contingent liabilities?

5 (Exclude debts to any government and loans secured by recorded

6 liens on property at least equal in value to the loan.)

7 EITHER check NO // OR check YES // and complete Schedule B.

8 3. Securities.

9 Do you or a member of your immediate family, directly or

10 indirectly, separately or together, own securities valued in

11 excess of \$10,000 invested in one business? Account for mutual

12 funds, limited partnerships and trusts.

13 EITHER check NO // OR check YES // and complete Schedule C.

14 4. Payments for Talks, Meetings, and Publications.

15 During the past 12 months did you receive lodging,

16 transportation, money, or anything else of value with a

17 combined value exceeding \$200 for a single talk, meeting, or

18 published work in your capacity as a legislator?

19 EITHER check NO // OR check YES // and complete Schedule D.

20 5. Gifts.

21 During the past 12 months did a business, government, or

22 individual other than a relative or personal friend (i) furnish

23 you with any gift or entertainment at a single event, and the

24 value received by you exceeded \$50 in value or (ii) furnish you

25 with gifts or entertainment in any combination and the value

26 received by you exceeded \$100 in total value; and for

27 which you neither paid nor rendered services in exchange?

28 Account for entertainment events only if the average value

29 per person attending the event exceeded \$50 in value.

30 Account for all business entertainment (except if related to

31 your private profession or occupation) even if unrelated

32 to your official duties.

33 EITHER check NO // OR check YES // and complete Schedule E.

34 6. Salary and Wages.

35 List each employer that pays you or a member of your immediate

36 family salary or wages in excess of \$10,000 annually. (Exclude

37 state or local government or advisory agencies.)

38 If no reportable salary or wages, check here //.

39

40

41

42 7. Business Interests.

43 Do you or a member of your immediate family, separately or

44 together, operate your own business, or own or control an

45 interest in excess of \$10,000 in a business?

46 EITHER check NO // OR check YES // and complete Schedule F.

47 8. Payments for Representation and Other Services.

48 8A. Did you represent any businesses before any state governmental

49 agencies, excluding courts or judges, for which you received

50 total compensation during the past 12 months in excess of

51 \$1,000, excluding compensation for other services to such

52 businesses and representation consisting solely of the filing

53 of mandatory papers and subsequent representation regarding

54 the mandatory papers?

55 EITHER check NO // OR check YES // and complete Schedule G-1.

56 8B. Subject to the same exceptions as in 8A, did persons with whom

57 you have a close financial association (partners, associates or

58 others) represent any businesses before any state governmental

59 agency for which total compensation was received during the

60 past 12 months in excess of \$1,000?

61 EITHER check NO // OR check YES // and complete Schedule G-2.

62 8C. Did you or persons with whom you have a close financial

1 association furnish services to businesses operating in
2 Virginia for which total compensation in excess of \$1,000 was
3 received during the past 12 months?
4 EITHER check NO / / OR check YES / / and complete Schedule G-3.

5 9. Real Estate.
6 Do you or a member of your immediate family hold an interest,
7 including a partnership interest, valued at \$10,000 or more in
8 real property (other than your principal residence) for which
9 you have not already listed the full address on Schedule F?
10 Account for real estate held in trust.

11 EITHER check NO / / OR check YES / / and complete Schedule H.
12 10. Real Estate Contracts with State Governmental Agencies.
13 Do you or a member of your immediate family hold an interest
14 valued at more than \$10,000 in real estate, including a
15 corporate, partnership, or trust interest, option, easement,
16 or land contract, which real estate is the subject of a
17 contract, whether pending or completed within the past 12
18 months, with a state governmental agency? If the real estate
19 contract provides for the leasing of the property to a state
20 governmental agency, do you or a member of your immediate
21 family hold an interest in the real estate, including a
22 corporate, partnership, or trust interest, option, easement,
23 or land contract valued at more than \$1,000? Account for all
24 such contracts whether or not your interest is reported in
25 Schedule F or H. This requirement to disclose an
26 interest in a lease does not apply to an interest derived
27 through an ownership interest in a business unless the ownership
28 interest exceeds three percent of the total equity of the
29 business.
30 EITHER check NO / / OR check YES / / and complete Schedule I.

31
32 Statements of Economic Interests are open for public inspection.

33
34 AFFIRMATION.

35
36 In accordance with the rules of the house in which I serve, if I
37 receive a request that this disclosure statement be corrected,
38 augmented, or revised in any respect, I hereby pledge that I shall
39 respond promptly to the request. I understand that if a
40 determination is made that the statement is insufficient, I will
41 satisfy such request or be subjected to disciplinary action of
42 my house.

43
44 I swear or affirm that the foregoing information is full, true and
45 correct to the best of my knowledge.

46
47 Signature
48 Commonwealth of Virginia
49 of to wit:
50 The foregoing disclosure form was acknowledged before me
51 This day of, 19. . ., by,
52 Notary Public
53 My commission expires

54
55 (Return only if needed to complete Statement.)

56
57 SCHEDULES
58 TO
59 STATEMENT OF ECONOMIC INTERESTS.

60
61 NAME

SCHEDULE A - OFFICES AND DIRECTORSHIPS.

Identify each business of which you or a member of your immediate family is a paid officer or paid director.

Name of Business	Address of Business	Position Held
.....
.....
.....
.....

RETURN TO ITEM 2

SCHEDULE B - PERSONAL LIABILITIES.

Report personal liability by checking each category. Report only debts in excess of \$10,000. Do not report debts to any government. Do not report loans secured by recorded liens on property at least equal in value to the loan. Report contingent liabilities below and indicate which debts are contingent.

1. My personal debts are as follows:

Check appropriate categories	Check one	
	\$10,001 to \$50,000	More than \$50,000
Banks
Savings institutions
Other loan or finance companies
Insurance companies
Stock, commodity or other brokerage companies
Other businesses: (State principal business activity for each creditor.)
.....
.....
Individual creditors: (State principal business or occupation of each creditor.)
.....
.....

2. The personal debts of the members of my immediate family are as follows:

Check Check one

1 appropriate \$10,001 to More than
 2 categories \$50,000 \$50,000
 3

4 Banks
 5 Savings institutions
 6 Other loan or finance companies
 7 Insurance companies
 8 Stock, commodity or other brokerage
 9 companies
 10 Other businesses:
 11 (State principal business activity for
 12 each creditor.)
 13
 14
 15 Individual creditors:
 16 (State principal business or occupation
 17 of each creditor.)
 18
 19
 20 -----

21 -----
 22 RETURN TO ITEM 3
 23

24 SCHEDULE C - SECURITIES.

25
 26 "Securities" INCLUDES stocks, bonds, "Securities" EXCLUDES
 27 mutual funds, limmited partnerships, certificates of deposit,
 28 and commodity futures contracts. money market funds, annuity
 29 contracts, and insurance
 30 policies.
 31

32 Identify each business or Virginia governmental entity in which you
 33 or a member of your immediate family, directly or indirectly,
 34 separately or together, own securities valued in excess of \$10,000.
 35

36 Do not list U.S. Bonds or other government securities not issued
 37 by the Commonwealth of Virginia or its authorities, agencies, or
 38 local governments. Do not list organizations that do not do
 39 business in this Commonwealth, but most major businesses conduct
 40 business in Virginia. Account for securities held in trust.
 41

42 If no reportable securities, check here / /.
 43 -----
 44 -----

46	47	48	49	45		
				Type of Security	Check one	
50	51	52	53	(stocks, bonds,	\$10,001	More
				mutual funds,	to	than
Name of Issuer	Type of	Entity	etc.)	\$50,000	\$50,000	
50
51
52
53
54
55

56 RETURN TO ITEM 4
 57

58 SCHEDULE D - PAYMENTS FOR TALKS, MEETINGS, AND PUBLICATIONS.

59
 60 List each source from which you received during the past 12
 61 months lodging, transportation, money, or any other thing of
 62 value (excluding meals or drinks coincident with a meeting) with

1 combined value exceeding \$200 for your presentation of a single
 2 talk, participation in one meeting, or publication of a work in
 3 your capacity as a legislator.

4
 5 List payments or reimbursements by the Commonwealth only for
 6 meetings or travel outside the Commonwealth.

7
 8 List a payment even if you donated it to charity.

9
 10 Do not list information about a payment if you returned it
 11 within 60 days or if you received it from an employer already
 12 listed under Item 6 or from a source of income listed on
 13 Schedule F.

14
 15 If no payment must be listed, check here / /.

16 -----
 17 -----

18
 19
 20 Type of Payment
 21 (e.g., ~~honoraria~~
 22 Travel reim-
 23 bursement, etc.)

24 Payer	25 Approximate Value	26 Circumstances	27 Type of Payment
.....
.....
.....
.....

28 -----
 29 -----
 30 RETURN TO ITEM 5

31
 32 SCHEDULE E - GIFTS.

33
 34 List each business, governmental entity, or individual that,
 35 during the past 12 months, (i) furnished you with any gift or
 36 entertainment at a single event and the value received by
 37 you exceeded \$50 in value, or (ii) furnished you with gifts or
 38 entertainment in any combination and the value received by you
 39 exceeded \$100 in total value; and for which you neither paid
 40 nor rendered services in exchange. List each such gift or
 41 event. Do not list entertainment events unless the average
 42 value per person attending the event exceeded \$50 in value.
 43 Do not list business entertainment related to your private
 44 profession or occupation. Do not list gifts or other things
 45 of value given by a relative or personal friend for reasons
 46 clearly unrelated to your public position. Do not list
 47 campaign contributions publicly reported as required by
 48 Chapter 9 (§ 24.2-900 et seq.) of Title 24.2 of the Code
 49 of Virginia.
 50

51 -----
 52 -----

54 Name of Business, 55 Organization, or 56 Individual	57 City or 58 County 59 and State	60 Gift or 61 Event	62 Approximate Value
.....
.....
.....
.....

62 -----

1 -----
2 RETURN TO ITEM 6
3

4 SCHEDULE F - BUSINESS INTERESTS.
5

6 Complete this Schedule for each self-owned or family-owned business
7 (including rental property, a farm, or consulting work),
8 partnership, or corporation in which you or a member of your
9 immediate family, separately or together, own an interest having
10 a value in excess of \$10,000.
11

12 If the enterprise is owned or operated under a trade,
13 partnership, or corporate name, list that name; otherwise, merely
14 explain the nature of the enterprise. If rental property is
15 owned or operated under a trade, partnership, or corporate name,
16 list the name only; otherwise, give the address of each property.
17 Account for business interests held in trust.
18
19 -----
20 -----
21

Name of Business,		Gross Income		
Corporation,		Nature of Enterprise	\$50,000	More
Partnership,		(farming, law, rental	or	than
Farm; Address	City or	property, etc.)	less	\$50,000
of Rental	County and			
Property	State			

28
29
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33 -----

34 RETURN TO ITEM 8
35

36 SCHEDULE G-1 - PAYMENTS FOR REPRESENTATION BY YOU.
37

38 List the businesses you represented before any state governmental
39 agency, excluding any court or judge, for which you received
40 total compensation during the past 12 months in excess of \$1,000,
41 excluding compensation for other services to such businesses and
42 representation consisting solely of the filing of mandatory
43 papers and subsequent representation regarding the mandatory
44 papers filed by you.
45

46 Identify each business, the nature of the representation and the
47 amount received by dollar category from each such business. You
48 may state the type, rather than name, of the business if you are
49 required by law not to reveal the name of the business
50 represented by you.
51
52 -----
53 -----
54

Name	Type	Pur-	Name	Amount Received				
of	of	pose	of					
Busi-	Busi-	of	Agen-	\$1,001	\$10,001	\$50,001	\$100,001	\$250,001
ness	ness	Repre-	cy	to	to	to	to	and
		sentation		\$10,000	\$50,000	\$100,000	\$250,000	over
		tion						

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SCHEDULE G-2 - PAYMENTS FOR REPRESENTATION BY ASSOCIATES.

List the businesses that have been represented before any state governmental agency, excluding any court or judge, by persons who are your partners, associates or others with whom you have a close financial association and who received total compensation in excess of \$1,000 for such representation during the past 12 months, excluding representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by your partners, associates or others with whom you have a close financial association.

Identify such businesses by type and also name the state governmental agencies before which such person appeared on behalf of such businesses.

Type of Business	Name of State Governmental Agency
.....
.....
.....

SCHEDULE G-3 - PAYMENTS FOR REPRESENTATION AND OTHER SERVICES GENERALLY.

Indicate below types of businesses that operate in Virginia to which services were furnished by you or persons with whom you have a close financial association and for which total compensation in excess of \$1,000 was received during the past 12 months.

Identify opposite each category of businesses listed below (i) the type of business, (ii) the type of service rendered and (iii) the value by dollar category of the compensation received for all businesses falling within each category.

	Check if services were rendered	Type of service rendered	Value of Compensation				
			\$1,001 to \$10,000	\$10,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	\$250,001 and over
Electric utilities
Gas utilities
Telephone utilities
Water util-

1	ities	.....
2	Cable tele-	
3	vision	
4	companies	.....
5	Interstate	
6	transporta-	
7	tion com-	
8	panies	.....
9	Intrastate	
10	transporta-	
11	tion com-	
12	panies	.....
13	Oil or gas	
14	retail com-	
15	panies	.....
16	Banks	.....
17	Savings	
18	insti-	
19	tutions	.....
20	Loan or fi-	
21	nance com-	
22	panies	.....
23	Manufac-	
24	turing com-	
25	panies	
26	(state type	
27	of product,	
28	e.g., tex-	
29	tile, furni-	
30	ture, etc.)	.....
31	Mining com-	
32	panies	.....
33	Life insur-	
34	ance com-	
35	panies	.....
36	Casualty in-	
37	surance com-	
38	panies	.....
39		
40		
41	Other insur-	
42	ance com-	
43	panies	.....
44	Retail com-	
45	panies	.....
46	Beer, wine	
47	or liquor	
48	companies	
49	or distrib-	
50	tors	.....
51	Trade asso-	
52	ciations	.....
53	Profes-	
54	sional asso-	
55	ciations	.....
56	Associa-	
57	tions of	
58	public em-	
59	ployees or	
60	officials	.....
61	Counties,	
62	cities or	

1 towns
 2 Labor or-
 3 ganizations.....
 4 Other

5 -----
 6 -----
 7 -----

8 RETURN TO ITEM 9

9
 10 SCHEDULE H - REAL ESTATE.

11
 12 List real estate other than your principal residence in which
 13 you or a member of your immediate family holds an interest,
 14 including a partnership interest, option, easement, or land
 15 contract, valued at \$10,000 or more. You may list each parcel
 16 of real estate individually if you wish.
 17

18 -----
 19 -----

20
 21 List each location Describe the type of If the real estate
 22 (state, and county real estate you own is owned or recorded
 23 or city) where you in each location in a name other than
 24 own real estate. (business, recreational, your own, list that
 25 apartment, commercial, name.
 26 open land, etc.).

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 28
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 31

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 33 -----

34 RETURN TO ITEM 10

35
 36
 37 SCHEDULE I - REAL ESTATE CONTRACTS WITH STATE GOVERNMENTAL AGENCIES.

38
 39 List all contracts, whether pending or completed within the past
 40 12 months, with a state governmental agency for the sale or
 41 exchange of real estate in which you or a member of your
 42 immediate family holds an interest, including a corporate,
 43 partnership or trust interest, option, easement, or land
 44 contract, valued at \$10,000 or more. List all contracts with a
 45 state governmental agency for the lease of real estate in which
 46 you or a member of your immediate family holds such an interest
 47 valued at \$1,000 or more. This requirement to disclose an
 48 interest in a lease does not apply to an interest derived
 49 through an ownership interest in a business unless the ownership
 50 interest exceeds three percent of the total equity of the
 51 business.
 52

53 -----
 54 -----

55
 56 List your real List each State the annual
 57 estate interest and governmental agency income from the
 58 the person or entity, which is a party to contract, and the
 59 including the type of the contract and amount, if any,
 60 entity, which is indicate the county of income you or
 61 party to the contract. or city where the any immediate
 62 Describe any real estate is family member

1 management role and located. derives annually
 2 the percentage from the contract.
 3 ownership interest
 4 you or your immediate
 5 family member has in
 6 the real estate
 7 or entity.
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15
 16 B. Any legislator who makes a knowing misstatement of a material fact on the Statement of Economic Interests shall
 17 be subject to disciplinary action for such violations by the house in which the legislator sits.

18 C. In accordance with the rules of each house, the Statement of Economic Interests of all members of each house
 19 shall be reviewed. If a legislator's Statement is found to be inadequate as filed, the legislator shall be notified in writing and
 20 directed to file an amended Statement correcting the indicated deficiencies, and a time shall be set within which such
 21 amendment shall be filed. If the Statement of Economic Interests, in either its original or amended form, is found to be
 22 adequate as filed, the legislator's filing shall be deemed in full compliance with this section as to the information disclosed
 23 thereon.

24 D. Ten percent of the membership of a house, on the basis of newly discovered facts, may in writing request the
 25 house in which those members sit, in accordance with the rules of that house, to review the Statement of Economic Interests
 26 of another member of that house in order to determine the adequacy of his filing. In accordance with the rules of each house,
 27 each Statement of Economic Interests shall be promptly reviewed, the adequacy of the filing determined, and notice given in
 28 writing to the legislator whose Statement is in issue. Should it be determined that the Statement requires correction,
 29 augmentation or revision, the legislator involved shall be directed to make the changes required within such time as shall be
 30 set under the rules of each house.

31 If a legislator, after having been notified in writing in accordance with the rules of the house in which he sits that his
 32 Statement is inadequate as filed, fails to amend his Statement so as to come into compliance within the time limit set, he shall
 33 be subject to disciplinary action by the house in which he sits. No legislator shall vote on any question relating to his own
 34 Statement.

35 **DRAFTING NOTE:** Technical corrections. In schedule D, the term "Honoraria" has been stricken since pursuant to current
 36 law (existing § 2.1-639.33) acceptance of honoraria by legislators is prohibited.

37 § 2.1-639.42 30-112. Creation Senate and House Ethics Advisory Panels; composition terms; quorum;
 38 compensation.

39 A. The Senate Ethics Advisory Panel and the House Ethics Advisory Panel are hereby continued. The provisions of
 40 §§ 2.1-639.43 30-112 through 2.1-639.52 30-119 shall be applicable to each panel.

41 B. The Senate Ethics Advisory Panel shall be composed of five members: three of whom shall be former members of
 42 the Senate; and two of whom shall be citizens of the Commonwealth who have not previously held such office. The members
 43 shall be nominated by the Committee on Privileges and Elections of the Senate and confirmed by the Senate. ~~Of the five~~
 44 ~~members to be appointed in 1992 to fill expired terms, one former member of the Senate shall serve for a term of one year,~~
 45 ~~one former member of the Senate and one citizen of the Commonwealth shall serve for terms of three years, and one former~~
 46 ~~member of the Senate and one citizen of the Commonwealth shall serve for terms of four years. Subsequent After initial~~
 47 appointments, all appointments shall be for terms of four years each except for unexpired terms. Nominations shall be made
 48 so as to assure bipartisan representation on the Panel.

49 C. The House Ethics Advisory Panel shall be composed of five members: one of whom shall be a retired justice or
 50 judge of a court of record; two of whom shall be former members of the House; and two of whom shall be citizens of the
 51 Commonwealth, at least one of whom shall not have previously held such office. The members shall be nominated by the
 52 Speaker of the House of Delegates and confirmed by the House of Delegates. ~~Of the five members to be appointed in 1992 to~~
 53 ~~fill expired terms, the retired judge or justice shall serve for a term of one year, one former member of the House and one~~
 54 ~~citizen of the Commonwealth shall serve for terms of three years, and one former member of the House and one citizen of the~~
 55 ~~Commonwealth shall serve for terms of four years. Subsequent After initial appointments, all appointments shall be for terms~~
 56 of four years each except for unexpired terms. Nominations shall be made so as to assure bipartisan representation on the
 57 Panel.

58 D. Each panel shall elect its own chairman.

4 E. No member shall serve more than three successive four-year terms. Vacancies shall be filled only for the
5 unexpired term.

6 F. Three members constitute a quorum of the Panel. A vacancy shall not impair the right of the remaining members
7 to exercise all powers of the Panel.

8 G. The chairman and members of the Panel, while serving on the business of the Panel, are performing legislative
9 duties and shall be entitled to the subsistence and travel allowances to which members of the General Assembly are entitled
10 when performing legislative duties.

11 **DRAFTING NOTE:** Technical corrections. Reference to original, staggered terms has been deleted as obsolete. This
12 proposed section is comprised of the following existing sections: subsections A through D are § 2.1-639.42, subsection E is §
13 2.1-639.43, subsection F is § 2.1-639.44, and subsection G is § 2.1-639.51.

14 ~~§ 2.1-639.43. Terms of office; vacancies.~~

15 ~~No member shall serve more than three successive four-year terms. Vacancies shall be filled only for the unexpired~~
16 ~~term.~~

17 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 30-112 (existing § 2.1-
18 639.42) supra.

19 ~~§ 2.1-639.44. Quorum.~~

20 ~~Three members constitute a quorum of the Panel. A vacancy does not impair the right of the remaining members to~~
21 ~~exercise all powers of the Panel.~~

22 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection F in proposed § 30-112 (existing § 2.1-
23 639.42).

24 ~~§ 2.1-639.45 30-113. Powers and duties of Panel.~~

25 The powers and duties of the Panel shall be applied and used only in relation to members of the respective house of
the General Assembly for which it is created. In addition to the other powers and duties specified in this article the Panel has
the power to organize and preserve statements and reports filed with the Panel for a period of five years from the date of
receipt. At the end of the five-year period, these documents may be destroyed.

26 **DRAFTING NOTE:** Technical corrections only.

27 ~~§ 2.1-639.46 30-114. Possible violations~~ Filing of complaints; procedures; disposition.

28 A. ~~Institution of proceedings.~~—In response to the signed and sworn complaint of any citizen of the Commonwealth
29 ~~filed with~~ submitted to the Panel, the Panel shall inquire into any alleged violation of Articles 2 through 5 (~~§ 2.1-639.32-30-102~~
30 ~~et seq.~~) of this chapter by any member of the respective house of the General Assembly in his current term or his immediate
31 prior term. Complaints shall be filed with the Director of the Division of Legislative Services, who shall ~~forthwith~~ promptly
32 submit the complaint to the chairman of the appropriate Panel.

33 B. ~~Notice and hearing.~~—If after such preliminary investigation as it may make, the Panel determines to proceed with
34 an inquiry into the conduct of any legislator, the Panel shall immediately notify in writing the individual as to the fact of the
35 inquiry and the charges against him and shall schedule one or more hearings on the matter. The legislator shall have the right
36 to present evidence, cross-examine witnesses, face and examine the accuser, and be represented by counsel at any
37 hearings. In its discretion, the Panel may grant the legislator any other rights or privileges not specifically enumerated ~~herein~~
38 in this subsection, and, in addition, may hold hearings in closed session. However, the legislator whose conduct is under
39 inquiry, by written request filed with the Panel, may require that all hearings before the Panel concerning the legislator be
40 public.

41 **DRAFTING NOTE:** Technical corrections only.

42 ~~§ 2.1-639.47 30-115. Subpoenas.~~

43 The Panel ~~is hereby empowered to~~ may issue subpoenas to compel the attendance of witnesses or the production of
44 documents, books or other records. The Panel may apply to the Circuit Court of the City of Richmond to compel obedience to
45 the subpoenas of the Panel. Notwithstanding any other provisions of law, every state and local governmental agency, and
46 units and subdivisions thereof shall make available to the Panel any documents, records, data, statements or other
47 information, except tax returns or information relating thereto, which the Panel designates as being necessary for the exercise
48 of its powers and duties.

49 **DRAFTING NOTE:** Technical corrections only.

~~§ 2.1-639.48 30-116. Disposition of cases.~~

1 Within 120 days of the ~~Chairman's~~ chairman's receiving a signed and sworn complaint, the Panel, or a majority of
2 members acting in its name, shall dispose of the matter in one of the following ways:

3 1. If the Panel determines that the complaint is without merit, the Panel shall dismiss the complaint and take no
4 further action. In such case, the Panel shall retain its records and findings in confidence unless the legislator under inquiry
5 requests in writing that the records and findings be made public.

6 2. If the Panel determines that there is a reasonable basis to conclude that the legislator has violated the provisions
7 of this chapter but that the violation was not made knowingly, the Panel shall refer the matter by a written report setting forth
8 its findings and the reasons therefor to the appropriate house of the General Assembly for appropriate action. All Panel
9 reports, which are advisory only, shall be delivered to the Clerk of the appropriate house, who shall refer the report to the
10 Committee on Privileges and Elections in accordance with the rules of the appropriate house. Said Committee shall in all
11 cases report, after due hearings and consideration, its determination of the matter and its recommendations and reasons for
12 its resolves to the appropriate house. If the Committee deems disciplinary action warranted, it shall report a resolution to
13 express such action. The appropriate house as a whole shall then consider the resolution, and if it finds the legislator in
14 violation of any provision of this chapter, it may by recorded vote take such disciplinary action as it deems warranted.

15 3. If the Panel determines that there is a reasonable basis to conclude that the legislator knowingly violated any
16 provision of Article 2 (~~§ 2-1-639.32-30-102~~ et seq.), 3 (~~§ 2-1-639.34-30-104~~ et seq.), 4 (~~§ 2-1-639.37-30-107~~ et seq.) or 5 (~~§~~
17 ~~2-1-639.39-30-109~~ et seq.) of this chapter, except ~~§ 2-1-639.38-30-108~~ or ~~subsection C of § 2-1-639.40-C-30-110~~, it shall
18 refer the matter by a written report setting forth its findings and the reasons therefor to the Attorney General for such action as
19 he ~~shall deem~~ deems appropriate. The Panel shall also file its report with the Clerk of the appropriate house, who shall refer
20 the report in accordance with the rules of his house. In the event the Attorney General determines not to prosecute the
21 alleged violation, he shall notify the Clerk of the appropriate house of his determination and the Clerk shall send the report to
22 the Committee on Privileges and Elections. The matter shall thereafter be handled in accordance with the provisions of
23 subdivision 2 ~~of this subsection~~.

24 4. If the Panel determines that there is a reasonable basis to conclude that the legislator has violated ~~§ 2-1-639.38~~
25 ~~30-108~~ or ~~subsection C of § 2-1-639.40-C-30-110~~, it shall refer the matter by a written report to the appropriate house
26 pursuant to subdivision 2. As its first order of business other than organizational matters and committee work, the house in
27 which the member sits shall immediately upon the convening of the next regular or special session take up and dispose of the
28 matter by taking one or more of the following actions: (i) dismiss the complaint; (ii) sustain the complaint and reprimand the
29 member; (iii) sustain the complaint, censure the member, and strip the member of his seniority; (iv) sustain the complaint and
30 expel the member by a two-thirds vote of the elected members; (v) in the event the house finds a knowing violation, it ~~m~~
31 refer the matter to the Attorney General pursuant to subdivision 3.

32 5. The Panel shall make public any report that it refers pursuant to the provisions of subdivision 2, 3 or 4 on the date
33 it refers its report.

34 **DRAFTING NOTE:** Technical corrections only.

35 ~~§ 2-1-639.49-30-117~~. Confidentiality of proceedings.

36 All proceedings during the investigation of any complaint by the Panel shall be confidential. This rule of
37 confidentiality shall apply to Panel members and their staff, the Committee on Privileges and Elections and its staff and the
38 Division of Legislative Services.

39 **DRAFTING NOTE:** Technical corrections only.

40 ~~§ 2-1-639.50-30-118~~. Staff for Panel.

41 The Panel shall have the authority to hire staff, subject to the approval of the President Pro Tempore of the Senate
42 for the Senate Ethics Advisory Panel and subject to the approval of the Speaker of the House of Delegates for the House
43 Ethics Advisory Panel.

44 **DRAFTING NOTE:** Technical corrections only.

45 ~~§ 2-1-639.51- Allowances~~.

46 ~~The chairman and members of the Panel, while serving on the business of the Panel, are performing legislative~~
47 ~~duties and are entitled to the subsistence and travel allowances to which members of the General Assembly are entitled when~~
48 ~~performing legislative duties.~~

49 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection G in proposed § 30-112 (existing § 2.1-
50 639.42).

51 ~~§ 2-1-639.52-30-119~~. Jurisdiction of Panel.

52 The Senate and House Ethics Advisory Panels shall have jurisdiction over any complaint alleging a violation of
53 Articles 2 (~~§ 2-1-639.32-30-102~~ et seq.) through 5 (~~§ 2-1-639.39-30-109~~ et seq.) of this chapter ~~which that~~ occurs on or af

1 August 1, 1987, and over any complaint alleging a violation of the Comprehensive Conflict of Interests Act occurring after July
2 1, 1984, and prior to August 1, 1987.

3 **DRAFTING NOTE:** Technical corrections only.

4 | ~~§ 2-1-639.53~~ 30-120. Senate and House Committees on Standards of Conduct.

5 Either house of the General Assembly may establish, in its rules, a Committee on Standards of Conduct to be
6 appointed as provided in its rules and consisting of three members, one of whom shall be a member of the minority party. The
7 Committee shall consider any request by a member of its house for an advisory opinion as to whether the facts in a particular
8 case would constitute a violation of the provisions of this chapter and may consider other matters assigned to it pursuant to
9 the rules of its house.

10 **DRAFTING NOTE:** Technical corrections only.

11 | ~~§ 2-1-639.53-4~~ 30-121. Disciplinary sanctions and Adoption of rules governing procedures and disciplinary
12 sanctions.

13 Each house of the General Assembly shall adopt rules governing procedures and disciplinary sanctions for members
14 who have committed alleged violations of this chapter.

15 **DRAFTING NOTE:** Technical corrections only.

16 | ~~§ 2-1-639.59~~ 30-122. Enforcement.

17 The provisions of this chapter shall be enforced by the Attorney General. In addition to any other powers and duties
18 prescribed by law, the Attorney General shall have the following powers and duties:

19 1. If he determines that any legislator has knowingly violated any provision of this chapter, he shall designate an
20 attorney for the Commonwealth who shall have complete and independent discretion in the prosecution of the legislator; and

21 2. He shall render advisory opinions to any legislator who seeks advice as to whether the facts in a particular case
22 would constitute a violation of the provisions of this chapter. He shall determine which of his opinions or portions thereof are
23 of general interest to the public and which may, from time to time, be published.

24 Irrespective of whether an opinion of the Attorney General has been requested and rendered, any legislator has the
25 right to seek a declaratory judgment or other judicial relief as provided by law.

26 **DRAFTING NOTE:** Technical corrections only.

27 | ~~§ 2-1-639.54~~ 30-123. Knowing violation of chapter a misdemeanor.

28 Any legislator who knowingly violates any of the provisions of Articles 2 through 5 (~~§§ 2-1-639.32- 30-102 through~~
29 ~~2-1-639.44 30-111~~) of this chapter, shall be guilty of a Class 1 misdemeanor. A knowing violation under this section is one in
30 which the person engages in conduct, performs an act or refuses to perform an act when he knows that the conduct is
31 prohibited or required by this chapter. There shall be no prosecution for a violation of ~~§ 2-1-639.38 30-108~~ or subsection C of
32 ~~§ 2-1-639.40-C 30-110~~ unless the house in which the member sits has referred the matter to the Attorney General as provided
33 in subdivision 4 of ~~§ 2-1-639.48 30-116~~.

34 **DRAFTING NOTE:** Technical corrections only.

35 | ~~§ 2-1-639.55~~ 30-124. Advisory opinions.

36 A legislator shall not be prosecuted or disciplined for a violation of this chapter if his alleged violation resulted from
37 his good faith reliance on a written opinion of a committee on standards of conduct established pursuant to ~~§ 2-1-639.53 30-~~
38 ~~120~~, or an opinion of the Attorney General as provided in ~~§ 2-1-639.59 30-122~~, and the opinion was made after his full
39 disclosure of the facts.

40 **DRAFTING NOTE:** Technical corrections only.

41 | ~~§ 2-1-639.56~~ 30-125. Invalidation of contract; rescission of sales.

42 A. Any contract made in violation of ~~§ 2-1-639.33 30-103~~ or ~~§ 2-1-639.35 30-105~~ may be declared void and may be
43 rescinded by the contracting or selling governmental authority within five years of the date of ~~such the~~ contract. In cases in
44 which the contract is invalidated, the contractor shall retain or receive only the reasonable value, with no increment for profit
45 or commission, of the property or services furnished prior to the date of receiving notice that the contract has been voided. In
46 cases of rescission of a contract of sale, any refund or restitution shall be made to the contracting or selling governmental
47 agency.

48 B. Any purchase made in violation of ~~§ 2-1-639.33 30-103~~ or ~~§ 2-1-639.35 30-105~~ may be rescinded by the
49 contracting or selling governmental agency within five years of the date of ~~such the~~ purchase.

50 **DRAFTING NOTE:** Technical corrections only.

1 | §~~2-1-630-57~~ 30-126. Forfeiture of money, etc., derived from violation of this chapter.

2 | In addition to any other fine or penalty provided by law, any money or other thing of value derived by a legislator
3 | from a violation of §§~~2-1-630-33~~ 30-103 through ~~2-1-630-38~~ 30-108 shall be forfeited and, in the event of a knowing violation,
4 | there may also be imposed a civil penalty in an amount equal to the amount of money or thing of value forfeited to the
5 | Commonwealth. If the thing of value received by the legislator in violation of this chapter should enhance in value between
6 | the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of forfeiture.

7 | **DRAFTING NOTE:** Technical corrections only.

8 | §~~2-1-630-64~~ 30-127. Criminal prosecutions.

9 | A. Violations of this chapter may be prosecuted notwithstanding the jurisdiction of, or any pending proceeding
10 | before, the House or Senate Ethics Advisory Panel.

11 | B. Nothing in this chapter shall limit or affect the application of other criminal statutes and penalties as provided in
12 | the Code of Virginia, including but not limited to bribery, embezzlement, perjury, conspiracy, fraud and violations of the Fair
13 | Elections Practices Act.

14 | **DRAFTING NOTE:** Technical corrections only.

15 | §~~2-1-630-58~~ 30-128. Limitation of actions.

16 | The statute of limitations for the criminal prosecution of a legislator for violation of any provision of this chapter shall
17 | be one year from the time the Attorney General has actual knowledge of the violation or five years from the date of the
18 | violation, whichever event first occurs.

19 | **DRAFTING NOTE:** Technical corrections only.

20 | §~~2-1-630-60~~ 30-129. Venue.

21 | Any prosecution for a violation of this chapter shall be brought in the circuit court of the jurisdiction in which the
22 | legislator resides, or the jurisdiction in which he resided at the time of the alleged violation if he is no longer a resident of the
23 | Commonwealth.

24 | **DRAFTING NOTE:** Technical corrections only.

25 | CHAPTER 14.

26 | AUDITOR OF PUBLIC ACCOUNTS.

27 | §~~2-1-153~~ 30-130. Election, term and compensation; vacancy.

28 | The Auditor of Public Accounts shall be elected by the joint vote of the two houses of the General Assembly, for the
29 | term of four years, as provided in Article IV, Section 18 of the Constitution of Virginia, and he shall receive such compensation
30 | as may be appropriated by law for the purpose. In the event the office of Auditor of Public Accounts becomes vacant while the
31 | General Assembly is not in session, the Joint Legislative Audit and Review Commission shall appoint a successor to serve
32 | until thirty days after the commencement of the next session of the General Assembly.

33 | **DRAFTING NOTE:** Technical corrections only.

34 | §~~2-1-154~~ 30-131. Official bonds.

35 | The penalty of the bond of the Auditor of Public Accounts shall be fixed by the Governor, ~~but the same which~~ shall
36 | not be less than \$5,000. Such of the employees in the office of the Auditor of Public Accounts as, in the opinion of the
37 | Governor, ~~should be bonded~~ shall be bonded, and the penalties of such bonds, respectively, shall be fixed by the Auditor of
38 | Public Accounts, subject to the approval of the Governor. The premiums on ~~the bond mentioned in this section~~ such bonds
39 | shall be paid out of the state treasury.

40 | **DRAFTING NOTE:** Technical corrections only.

41 | §~~2-1-172~~ 30-132. Employment of assistants; location of offices.

42 | A. The Auditor of Public Accounts is hereby authorized to may employ, with the approval of the Joint Legislative
43 | Audit and Review Commission, such the necessary assistants ~~as may be necessary~~ to enable him to carry out the provisions
44 | of this chapter.

45 | B. The office of the Auditor of Public Accounts shall be located in the City of Richmond, and he shall be provided
46 | with suitable offices for the conduct of the business of his department.

47 | **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
48 | A is § 2.1-172 and subsection B is § 2.1-171.

~~§ 2.1-171. Location of office of Auditor; offices to be provided.~~

~~The office of the Auditor of Public Accounts shall be located in the City of Richmond, and he shall be provided with suitable offices for the conduct of the business of his department.~~

DRAFTING NOTE: Technical corrections. This section now appears as subsection B in proposed § 30-132.

~~§ 2.1-155 30-133. Duties and powers generally.~~

~~A. The Auditor of Public Accounts shall audit all the accounts of every state department, officer, board, commission, institution or other agency in any manner handling any state funds. In the performance of such duties and the exercise of such powers he may employ the services of certified public accountants, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office.~~

~~B. As part of his normal oversight responsibilities, the Auditor of Public Accounts shall incorporate into his audit procedures and processes a review process to ensure that the Commonwealth's payments for qualifying vehicles, as defined in § 58.1-3523, are consistent with the provisions of §§ 58.1-3525 and 58.1-3526. The Auditor of Public Accounts shall report to the Governor and the Chairmen of the Senate Finance Committee annually any material failure by a locality or the Commonwealth to comply with the provisions of Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1.~~

~~If the Auditor of Public Accounts shall at any time discover any unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds, or if at any time it shall come to his knowledge that any unauthorized, illegal, or unsafe handling or expenditure of state funds is contemplated but not consummated, in either case he shall forthwith lay the facts before the Governor, the Joint Legislative Audit and Review Commission and the Comptroller.~~

~~C. The Auditor of Public Accounts when called upon by the Governor shall examine the accounts of any institution maintained in whole or in part by the Commonwealth and, upon the direction of the Comptroller, shall examine the accounts of any officer required to settle his accounts with him; and upon the direction of any other state officer at the seat of government he shall examine the accounts of any person required to settle his accounts with such officer.~~

~~D. Upon the written request of any member of the General Assembly, the Auditor of Public Accounts shall furnish the requested information and provide technical assistance upon any matter requested by such member.~~

~~E. In compliance with the provisions of the federal Single Audit Act Amendments of 1984 1996, Public Law 98-502 104-156, the Joint Legislative Audit and Review Commission may authorize the Auditor of Public Accounts to biennially audit biennially the accounts pertaining to federal funds received by state departments, officers, boards, commissions, institutions or other agencies.~~

DRAFTING NOTE: Technical corrections only. This proposed section is comprised of the following existing sections: subsections A, B and E are § 2.1-155; subsection C is § 2.1-163; subsection D is part of § 2.1-160, on the recommendation of the Auditor of Public Accounts. The paragraph shown here as stricken now appears as proposed § 30-139 (2.1-170) on the recommendation of the Auditor of Public Accounts.

~~§ 2.1-165 30-134. Audit of accounts of city and county officers handling state funds; audit report thereof; reimbursement of expenses.~~

~~A. At least once in every two years, and at such other times as the Governor may direct, it shall be the duty of directs, the Auditor of Public Accounts, either in person or through his assistants, ~~to shall~~ audit all accounts and records of every city and county official and agency in ~~this the~~ Commonwealth handling state funds, making a detailed written report thereof to the Governor, the Joint Legislative Audit and Review Commission, and appropriate local officials within thirty days after each audit. Reports so made shall be public records, ~~and the Governor shall transmit to the General Assembly at each regular session thereof copies of the same.~~~~

~~B. Every city and county, the accounts and records of whose officials or agencies are audited in accordance with subsection A, shall reimburse the Commonwealth to the extent of one-half of the expense connected with the audit, to be paid into the state treasury by the Auditor of Public Accounts. All such sums so repaid shall be placed by the Comptroller to the credit of the current appropriation made to the Auditor of Public Accounts and may be used by him for the purpose of carrying out the provisions of subsection A.~~

DRAFTING NOTE: Technical corrections. This proposed section is comprised of the following existing sections: subsection A is § 2.1-165 and subsection B is § 2.1-166.

~~§ 2.1-160 30-135. Inspection of accounts and vouchers; furnishing information and assistance to members of General Assembly; cooperation by state institutions, etc.~~

~~A. The Auditor of Public Accounts or his deputy shall, from time to time, inspect and scrutinize the accounts and vouchers of all state officers referred to in §§ 2.1-156 and 2.1-157 and upon the request in writing of any member of the General Assembly shall furnish such information as is called for and shall provide technical assistance upon any matter requested by such member. To this end he shall have access to records of all state institutions, departments and agencies. Such institutions, departments and agencies shall furnish all information requested by the Auditor and shall cooperate with him to the fullest extent § 2.2-803.~~

1 B. The Auditor of Public Accounts shall have access to records of all state institutions, departments and agencies
2 and they shall furnish all information requested by the Auditor and shall cooperate with him to the fullest extent.

3 C. Every inspection authorized by this section may be made without notice to the official whose accounts are to be
4 inspected, and it shall be the duty of the official whose books and accounts and vouchers are being inspected to produce
5 such books, vouchers and accounts and give the Auditor of Public Accounts or his deputy all necessary help and aid in
6 making the inspection. If any official fails to comply with the requirements of this subsection, he shall be guilty of a Class 1
7 misdemeanor.

8 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
9 A and B are § 2.1-160 and subsection C is § 2.1-161 with "shall" being replaced with "may" (in subsection C) on the
10 recommendation of the Auditor of Public Accounts because, in practice, the Auditor does notify an official of an inspection.
11 On the recommendation of the Auditor of Public Accounts, the stricken language now appears as subsection D in § 30-133
12 (2.1-155).

13 ~~§ 2.1-160~~ 30-136. Power as to witnesses; perjury.

14 The Auditor of Public Accounts, or his deputy, while conducting any examination authorized by this chapter, shall
15 have power to (i) administer an oath to any person whose testimony may be required in any such examination, and ~~to~~ (ii)
16 compel the appearance and attendance of such person for the purpose of any such examination and investigation, and ~~to~~ (iii)
17 call for any books and papers necessary to such examination. If any person willfully ~~swear~~ swears falsely in such examination
18 he shall be guilty of perjury.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§ 2.1-156~~ 30-137. Devising system of bookkeeping and accounting for ~~state and~~ local offices; costs.

21 A. The Auditor of Public Accounts, under the direction of the Joint Legislative Audit and Review Commission shall
22 devise a modern, effective and uniform system of bookkeeping and accounting for the use of all county, city and town officials
23 and agencies handling the revenues of the Commonwealth or of any political subdivision thereof; ~~provided, that the~~ The
24 Auditor of Public Accounts ~~and the Governor~~ may approve any existing system.

25 B. The Auditor of Public Accounts, when requested by the governing body of any unit of local government, may
26 make and establish a system of bookkeeping and accounting for such unit which shall conform to generally accepted
27 accounting principles. He shall make and establish a uniform system of fiscal reporting for the treasurers or other chief
28 financial officers, clerks of the courts and school divisions of all counties and cities, and all towns having a population of 3,500
29 or more and all towns constituting a separate school division regardless of population.

30 C. The cost of such service shall be borne by the county or city receiving the service of the Auditor of Public
31 Accounts and shall not exceed an amount sufficient to reimburse the Commonwealth for the actual cost to the
32 Commonwealth of the service. The fees so charged, upon an account rendered by the Auditor of Public Accounts, shall be
33 remitted by the treasurer of the county or city out of any funds within his control, within thirty days to the State Treasurer,
34 together with the account rendered by the Auditor of Public Accounts. The Auditor of Public Accounts shall pay into the state
35 treasury the amount so received to the credit of the funds of the Auditor of Public Accounts so that it may be available for
36 carrying out the provisions of subsection B.

37 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
38 A is § 2.1-156, subsections B and C are §§ 2.1-167 and 2.1-168, respectively except as noted in the drafting note for those
39 sections. In subsection A, the Governor has been removed from the requirement to approve any existing system on the
40 recommendation of the Auditor of Public Accounts.

41 ~~§ 2.1-155.3~~ 30-138. State agencies, courts, and local constitutional officers to report certain fraudulent transactions;
42 penalty.

43 A. Upon the discovery of circumstances suggesting a reasonable possibility that a fraudulent transaction has
44 occurred involving funds or property under the control of any state department, court, officer, board, commission, institution or
45 other agency of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of
46 elected constitutional officers, as to which one or more officers or employees of state or local government may be party
47 thereto, the state agency head, court clerk or local official in charge of such entity shall ~~forthwith~~ promptly report such
48 information ~~as is available~~ to the Auditor of Public Accounts ("Auditor") and the Superintendent of State Police
49 ("Superintendent").

50 B. The Auditor or the Superintendent shall review the information reported pursuant to subsection A and individually
51 determine the most appropriate method to investigate the information. In the event that the Auditor or the Superintendent
52 determines to conduct an investigation, he shall notify the other of the commencement of ~~such~~ the investigation as soon as
53 practicable, unless the information involves the Auditor or the Superintendent.

54 C. No state department, court, officer, board, commission, institution or other agency of the Commonwealth
55 including local constitutional officers and appointed officials exercising the powers of elected constitutional officers, shall

1 employ or contract with any person, firm, corporation, or other legal entity to conduct an investigation or audit of information
2 reported pursuant to subsection A without obtaining the prior written approval from the Auditor and the Superintendent.
3 Pending acknowledgement of the report and receipt of the written approval from the Auditor and the Superintendent, the state
4 department, court, officer, board, commission, institution, or other agency of the Commonwealth, including local constitutional
5 officers and appointed officials exercising the powers of elected constitutional officers, may use their employees to audit the
6 circumstances reported in subsection A to prevent the loss of assets.

7 D. All state departments, courts, officers, boards, commissions, institutions or other agencies of the Commonwealth,
8 including local constitutional officers and appointed officials exercising the powers of elected constitutional officers and their
9 employees, shall cooperate to the fullest extent in any investigation or audit which may occur at the direction of the Auditor or
10 the Superintendent or both as a result of information reported pursuant to subsection A.

11 E. The willful failure to make the report as required ~~herein~~ by this section shall constitute a Class 3 misdemeanor.

12 F. Nothing herein shall affect the requirements of § 52-8.2.

13 **DRAFTING NOTE:** Technical corrections only.

14 ~~§ 2-1-170 30-139.~~ To whom Auditor to report defaults or irregularities.

15 ~~If the result of any examination made by the Auditor of Public Accounts, or his deputy, under this chapter, shall show~~
16 ~~that any moneys received have not been properly accounted for or have been paid out contrary to law or that there has been~~
17 ~~any irregularity, it shall be the duty of such Auditor to report the same to the Comptroller and the Governor. In case there is~~
18 ~~any irregularity in the accounts of the Comptroller, the Auditor shall make report of the same to the Governor and to the~~
19 ~~General Assembly. If, at any time, the Auditor of Public Accounts discovers any unauthorized, illegal, irregular, or unsafe~~
20 ~~handling or expenditure of state funds, or if comes to his attention that any unauthorized, illegal, or unsafe handling or~~
21 ~~expenditure of state funds is contemplated but not consummated, he shall promptly report the facts to the Governor, the Joint~~
22 ~~Legislative Audit and Review Commission and the Comptroller.~~

23 In case there is any irregularity in the accounts of the Comptroller, the Auditor shall report it to the Governor and the
24 General Assembly.

25 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Auditor of Public Accounts, (i) the stricken
26 language has been deleted as duplicative of existing § 2.1-155 and (ii) the proposed language, shown here as new in the first
27 paragraph, is from the third paragraph of existing § 2.1-155, which was moved here.

28 ~~§ 2-1-163. Examination of certain accounts upon direction of state officers.~~

29 ~~The Auditor of Public Accounts when called upon by the Governor shall examine the accounts of any institution~~
30 ~~maintained in whole or in part by the Commonwealth and, upon the direction of the Comptroller, shall examine the accounts~~
31 ~~of any officer required to settle his accounts with him; and upon the direction of any other state officer at the seat of~~
32 ~~government he shall examine the accounts of any person required to settle his accounts with such officer.~~

33 **DRAFTING NOTE:** Technical corrections only. This section now appears as subsection C in proposed § 30-133 (2.1-155).

34 ~~§ 2-1-161. Inspection to be made without notice; official to produce books, etc., and give aid; penalty.~~

35 ~~Every such inspection shall be made without notice to the official whose accounts are to be inspected, and it shall be~~
36 ~~the duty of the official whose books and accounts and vouchers are being inspected to produce such books, vouchers and~~
37 ~~accounts and give the Auditor of Public Accounts or his deputy all necessary help and aid in making such inspection. Should~~
38 ~~any official fail to perform the requirements of this section he shall be guilty of a misdemeanor.~~

39 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 30-135 (existing § 2.1-
40 160) supra.

41 ~~§ 2-1-164 30-140.~~ Certain political subdivisions to file report of audit; period in which report kept as public record;
42 when audit not required; sworn statement of exempted entities; publication of summary of financial condition; repeal of
43 conflicting provisions.

44 A. Each authority, commission, district or other political subdivision the members of whose governing body are not
45 elected by popular vote shall annually, within three months after the end of its fiscal year, have an audit performed covering
46 its financial transactions for such fiscal year according to the specifications of the Auditor of Public Accounts and file with the
47 Auditor of Public Accounts a copy of the report, unless exempted ~~as provided herein~~ in accordance with subsection B. The
48 Auditor of Public Accounts shall receive such reports and keep the same as public records for a period of ten years from their
49 receipt.

50 B. No audit, however, shall be required for any fiscal year during which such entity's financial transactions did not
51 exceed the sum of \$5,000.

1 As used ~~herein~~ in this section, "financial transactions" shall not include financial transactions involving notes, bonds
2 or other evidences of indebtedness of such entity the proceeds of which are held or advanced by a corporate trustee or other
3 financial institution and not received or disbursed directly by such entity.

4 In the event an audit is not required by the foregoing, the entity shall file a statement under oath certifying that the
5 transactions did not exceed such sum and, as to all transactions involving notes, bonds or other evidences of indebtedness
6 which are exempted, the statement shall be accompanied by an affidavit from the trustee or financial institution certifying that
7 it has performed the duties required under the agreement governing such transactions. Notwithstanding the foregoing, the
8 Auditor of Public Accounts may require ~~such an audit should if he deem such deems it~~ to be necessary to determine the
9 propriety of the entity's financial transactions.

10 In the case of a water and sewer authority required by a governing body to have an audit conducted as specified in §
11 15.1-1269.2 B, ~~such 15.2-5145,~~ the authority shall file the certified audit with the Auditor of Public Accounts.

12 At the time the report required ~~herein by this section~~ is filed with the Auditor of Public Accounts every such authority,
13 commission, district or other political subdivision, except those exempted from the audit report requirement ~~as provided~~
14 ~~herein~~, shall publish, in a newspaper of general circulation in the county, city or town wherein ~~such the~~ authority, commission,
15 district or other political subdivision is located, a summary statement reflecting the financial condition of ~~such the~~ authority,
16 commission, district or other political subdivision, which shall include a reference to where the detailed statement may be
17 found.

18 Any provision of law, general or special, which by its terms requires an audit that is not required by this ~~statute is~~
19 ~~section shall be~~ repealed to the extent of any conflict.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 2.1-166. Reimbursement of part of expense of such audit.~~

22 ~~Every locality, the accounts and records of whose officials or agencies are audited in pursuance of § 2.1-165, shall~~
23 ~~reimburse the Commonwealth to the extent of one half of the expense connected therewith, the same to be paid into the state~~
24 ~~treasury on the presentation by the Auditor of Public Accounts of a bill therefor. All such sums so repaid shall be placed by~~
25 ~~the Comptroller to the credit of the current appropriation made to the Auditor of Public Accounts and may be used by the latter~~
26 ~~for the purpose of carrying out the provisions of § 2.1-165.~~

27 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 30-134 (existing § 2.1-
28 165) supra.

29 ~~§ 2.1-172.1 30-141.~~ Annual report.

30 The Auditor of Public Accounts shall make an annual report of the ~~acts and doings~~ activities of his office to the
31 Governor and the General Assembly.

32 **DRAFTING NOTE:** Technical corrections only.

33 ~~§ 2.1-167. Auditor to perform services for counties, cities, school divisions and certain towns.~~

34 ~~The Auditor of Public Accounts, when requested by the governing body of any unit of local government, may make~~
35 ~~and establish a system of bookkeeping and accounting for such unit which shall conform to generally accepted accounting~~
36 ~~principles. He shall make and establish a uniform system of fiscal reporting for the treasurers or other chief financial officers,~~
37 ~~clerks of the courts and school divisions of all counties and cities, and all towns having a population of 3,500 or over and all~~
38 ~~towns constituting a separate school division regardless of population. He may at any time, examine the books and accounts~~
39 ~~of such officers, and report to the supervisors or councils, the findings of his investigation, if it relates to the affairs of such~~
40 ~~county or city or town.~~

41 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Auditor of Public Accounts, this section now
42 appears as subsection B in proposed § 30-137 (2.1-156) except the last sentence in this section which has been deleted,
43 again on the recommendation of the Auditor of Public Accounts, because the subject of this sentence is covered by § 15.2-
44 2511.

45 ~~§ 2.1-168. Cost of such service.~~

46 ~~The cost of such service as may be so required shall be borne by the county or city receiving the service of the~~
47 ~~Auditor of Public Accounts and shall not exceed an amount sufficient to reimburse the Commonwealth for the actual cost to~~
48 ~~the Commonwealth of such service. The fees so charged the counties and cities for the service herein mentioned, upon an~~
49 ~~account rendered by the Auditor of Public Accounts, shall be remitted by the treasurer of the county or city out of any funds in~~
50 ~~his hands, within thirty days to the State Treasurer, together with the account rendered by the Auditor of Public Accounts, who~~
51 ~~shall pay into the state treasury the amount so received to the credit of the funds of the Auditor of Public Accounts so that~~
52 ~~such moneys may be available for carrying out the provisions of § 2.1-167. But no part of the cost and expense of any such~~
53 ~~audit shall be paid by any county or city whose board of supervisors or other governing body or city council has its accounts~~
54 ~~audited annually by a certified public accountant according to specifications furnished by the Auditor of Public Accounts and~~

1 furnishes such Auditor with a copy of such audit. And the costs of any audit of the books and accounts of any city treasurer
2 who neither collects nor disburses any city revenues or local taxes shall not be required to be paid by the city or any such
3 treasurer.

4 **DRAFTING NOTE:** Technical corrections. On the recommendation of the Auditor of Public Accounts, this section now
5 appears as subsection C in proposed § 30-137 (existing § 2.1-156), except the last two sentences of this section which have
6 been deleted, again on the recommendation of the Auditor of Public Accounts, because the subject of this sentence is
7 covered by § 15.2-2511.

8 ~~§ 2-1-155.2 30-142.~~ Assumption of duties by Joint Legislative Audit and Review Commission upon failure of Auditor
9 to perform; procedure.

10 ~~While the General Assembly is in recess~~Whenever the General Assembly is not in session, the Joint Legislative
11 Audit and Review Commission shall have the authority to ~~may~~ perform any of the duties of the Auditor of Public Accounts
12 upon its determination that the Auditor is unable or unwilling to perform any of his duties by reason of incapacity, malfeasance
13 in office, neglect of duty, conflict of interest, or criminal activity relating to the performance of his duties. Such action shall,
14 after notice to the Auditor of Public Accounts and an opportunity to be heard, require a three-fifths vote of all Commission
15 members and shall be effective until the House of Delegates, acting at the next regular or special session of the General
16 Assembly, ~~shall determine~~ determines whether to institute impeachment proceedings against the Auditor, as provided in
17 Article IV, Section 17 of the Constitution of Virginia or until the Joint Legislative Audit and Review Commission, by a majority
18 vote of its membership, determines that the Auditor of Public Accounts can resume the performance of his duties. Upon
19 institution of impeachment proceedings by the House of Delegates, the Commission may continue to perform such duties
20 until the conclusion of impeachment proceedings.

21 **DRAFTING NOTE:** Technical corrections only.

22 CHAPTER 15.

23 VIRGINIA CODE COMMISSION.

24 ~~§ 9-77.4 30-145.~~ Virginia Code Commission ~~continued~~; membership, terms ~~and vacancies~~; ~~compensation~~; staff.

25 A. The Virginia Code Commission (the "Commission"); established by Chapter 400 of the 1946 Acts of Assembly,
26 hereinafter referred to in this chapter as "Commission," is continued as a is established in the legislative agency branch of
27 state government. #The Commission shall be composed consist of:

28 1. Two members of the Senate appointed by the Senate Committee on Privileges and Elections ~~of that body~~ for
29 terms coincident with their terms as members of the Senate, and two members of the House of Delegates appointed by the
30 Speaker ~~thereof~~ of the House of Delegates for terms coincident with their terms as members of the House of Delegates;

31 2. Two circuit court judges, both of whom may be retired or inactive, appointed by the Governor for terms of four
32 years each. If the Governor fails to make such appointment within ninety days of the expiration of the term or the occurrence
33 of a vacancy, the Speaker ~~of the House of Delegates~~ shall make the appointment. If the Governor fails a second time to
34 make such appointment, the Senate Committee on Privileges and Elections shall make the appointment, and the Speaker
35 and Privileges and Elections Committee shall alternate such appointments thereafter;

36 3. One former member of the House of Delegates appointed by the Speaker ~~thereof~~ and one former member of the
37 Senate appointed by the Senate Committee on Privileges and Elections, both for four-year terms, who shall be entitled to all
38 the rights granted under § 30-5; and

39 4. The Attorney General, or an assistant Attorney General designated by the Attorney General, and the Director of
40 the Division of Legislative Services, ~~as members ex officio.~~

41 B. All ~~such~~ members of the Commission shall serve until the expiration of their terms or until their successors shall
42 qualify. Subsequent appointments shall be made for similar terms, and vacancies shall be filled for the unexpired terms by
43 the persons authorized to make the in the manner of the original appointments.

44 C. Members of the Commission shall receive compensation as provided in § 30-19.12. All members shall receive
45 their necessary expenses incurred in the performance of their duties.

46 D. The Division of Legislative Services shall provide staff support to the Commission. The Commission may also
47 directly employ part-time or full-time personnel as needs occur, including experts who have special knowledge of specific
48 titles of the Code being revised.

49 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
50 A and B are § 9-77.4, subsection C is § 9-77.5, and subsection D is § 9-77.6.

51 ~~§ 9-77.5. Compensation and expenses.~~

52 ~~Members of the Commission shall receive compensation as provided in § 14.1-18. All members shall receive their~~
53 ~~necessary expenses incurred in attendance upon meetings or otherwise incurred in the performance of their duties.~~

1 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 30-145 (existing § 9-
2 77.4) supra.

3 ~~§ 9-77.6. Staff support; employees and consultants.~~

4 ~~The Division of Legislative Services shall provide such staff support, both administrative and professional, as the~~
5 ~~Commission may require. The Commission may also directly employ part time or full time personnel as needs occur,~~
6 ~~including experts who have special knowledge of specific titles of the Code being revised.~~

7 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 30-145 (existing § 9-77.4)
8 supra.

9 ~~§ 9-77.7~~ 30-146. Publication of Code of Virginia and Administrative Code; authority regarding type and form.

10 The Commission is charged with the responsibility of publishing and maintaining a Code of the general and
11 permanent statutes of the Commonwealth. The Commission shall also have the responsibility of publishing and maintaining
12 ~~an administrative code when the Commission determines that the publication of such an administrative code is within the best~~
13 ~~interests of the citizens of the Commonwealth and will not result in an expenditure of general fund revenues unless provided~~
14 ~~in the general appropriations act the Virginia Administrative Code.~~

15 The Commission may arrange for the Code of Virginia and ~~an administrative code~~ the Virginia Administrative Code
16 (i) to be printed and published by or at the expense of the Commonwealth and sold and otherwise distributed by the
17 Commonwealth, or the Commission may arrange for the Code of Virginia and an administrative code (ii) to be privately
18 printed and published, under the direction and supervision of the Commission and upon such terms as the Commission may
19 provide, and sold and distributed by the publisher or publishers upon such terms, including terms as to price, as the
20 Commission may provide.

21 The Commission shall have full discretion to arrange for the publication of annotated or unannotated copies of the
22 Code of Virginia and ~~an administrative code~~ the Virginia Administrative Code; to fix the number of volumes; and to decide all
23 questions of form, makeup and arrangement, including title pages, prefaces, annotations, indices, tables of contents and
24 reference, appendices, paper, type, binding and lettering. The Commission may arrange for the Code of Virginia and ~~an~~
25 ~~administrative code~~ the Virginia Administrative Code to be made permanent editions and kept current by means of
26 supplements and replacement volumes.

27 **DRAFTING NOTE:** Technical corrections. Language stricken in the first paragraph has been deleted as obsolete since the
28 Virginia Administrative Code is now published.

29 ~~§ 9-77.8~~ 30-147. Contracting with publishers; property rights regarding Code of Virginia and ~~administrative code~~
30 Virginia Administrative Code material.

31 A. The Commission ~~is authorized to~~ may enter into ~~a contract or contracts~~ with any reputable person, ~~persons, or~~
32 ~~firm~~ for such editorial work, printing, indexing, annotating and other work as may be necessary. All parts of any code
33 published or authorized to be published by the Commission, including statute text, regulation text, catchlines, historical
34 citations, numbers of sections, articles, chapters and titles, frontal analyses and revisor's notes, shall become and remain the
35 exclusive property of the Commonwealth to be used only as the Commission may direct. However, the Commission shall
36 acknowledge a property right in and the right to copyright materials prepared and added to any code by the person ~~or persons~~
37 ~~or firm~~ preparing it. Such materials may include, inter alia, case annotations, indices, various notes concerning sections and
38 reference tables.

39 B. Trade secrets or proprietary information submitted by any person ~~or firm~~ contracting or proposing to contract with
40 the Commission in connection with the publication of (i) the Code of Virginia, (ii) the Virginia Administrative Code or (iii) any
41 other materials published by the Commission shall not be subject to public disclosure under the Virginia Freedom of
42 Information Act (~~§ 2-1-340~~ 2.2-3700 et seq.). However, the person or firm shall invoke the protections of this subsection prior
43 to or upon submission of the data or other materials to be protected and state the reasons why protection is necessary. The
44 Commission may, in closed ~~or executive~~ session, discuss, consider, review or deliberate upon proposals which contain trade
45 secrets or proprietary information submitted by any person ~~or firm~~ contracting or proposing to contract with the Commission in
46 connection with the publication of the Code of Virginia or the Virginia Administrative Code.

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§ 9-77.9~~ 30-148. Codification of session laws.

49 Immediately following each regular session of the General Assembly, the Commission shall arrange for the
50 codification and incorporation into the Code of Virginia all general and permanent statutes enacted at such regular sessions
51 and at all special sessions that have occurred between that regular session and the immediately preceding regular session.
52 ~~Such~~ The statutes may be incorporated by supplements to each volume, replacement of any volume or volumes, or a
53 combination thereof.

1 Unless prevented by unusual circumstances, this work and the distribution of each supplement and replacement
2 volume shall be completed prior to the date when the statutes contained in each such supplement and replacement volume
3 become effective.

4 **DRAFTING NOTE:** Technical corrections only.

5 | ~~§ 9-77.10~~ 30-149. Authority for minor changes to the Code of Virginia.

6 The Commission may correct unmistakable printer's errors, misspellings and other unmistakable errors in the
7 statutes as incorporated into the Code of Virginia, and may make consequential changes in the titles of officers and agencies,
8 and other purely consequential changes made necessary by the use in the statutes of titles, terminology and references, or
9 other language no longer appropriate.

10 The Commission may renumber, rename, and rearrange any Code of Virginia titles, chapters, articles, and sections
11 in the statutes adopted, and make corresponding changes in lists of chapter, article, and section headings, catchlines, and
12 tables, when, in the judgment of the Commission, it is necessary because of any disturbance or interruption of orderly or
13 consecutive arrangement.

14 The Commission may correct unmistakable errors in cross-references to Code of Virginia sections and may change
15 cross-references to Code of Virginia sections which have become outdated or incorrect due to subsequent amendment to,
16 revision, or repeal of the sections to which reference is made.

17 The Commission may omit from the statutes incorporated into the Code of Virginia provisions which, in the judgment
18 of the Commission, are inappropriate in a code, such as emergency clauses, clauses providing for specific nonrecurring
19 appropriations and general repealing clauses.

20 **DRAFTING NOTE:** Technical corrections only.

21 | ~~§ 9-77.10:4~~ 30-150. Authority for minor changes to the Virginia Administrative Code.

22 The Commission may correct unmistakable printer's errors, misspellings and other unmistakable errors in the
23 regulations as incorporated into the Virginia Administrative Code, and may make consequential changes in the titles of
24 officers and agencies, and other purely consequential changes made necessary by the use in the regulations of titles,
25 terminology and references, or other language no longer appropriate.

26 The Commission may renumber, rename, and rearrange any Virginia Administrative Code titles, sections or other
27 divisions within the regulations which have been proposed, adopted or have become effective and make corresponding
28 changes in lists of subject and section headings, catchlines and tables, when in the judgment of the Commission it is
29 necessary because of any disturbance or interruption of orderly or consecutive arrangement.

30 The Commission may correct unmistakable errors in the cross-references to Code of Virginia or Virginia
31 Administrative Code sections and may change cross-references to such sections which have become outdated or incorrect
32 due to subsequent amendment to, revision or repeal of the sections to which reference is made.

33 The Commission may omit from the regulations incorporated into the Virginia Administrative Code provisions which,
34 in the judgment of the Commission, are inappropriate in a code, including, but not limited to, (i) effective date clauses and (ii)
35 severability clauses, which are provided for under ~~§ 9-6.14:5-4~~ 2.2-4004.

36 **DRAFTING NOTE:** Technical corrections only.

37 | ~~§ 9-77.10:2~~ 30-151. Ongoing responsibility for repeal of obsolete statutes and Acts of Assembly.

38 The Commission shall continuously review the Code of Virginia and uncodified provisions in the Virginia Acts of
39 Assembly to identify obsolete chapters, articles, sections, or enactments. The Commission shall annually make such
40 recommendation to the General Assembly through legislation amending or repealing such statutes or acts as the Commission
41 deems appropriate.

42 **DRAFTING NOTE:** Technical corrections only.

43 | ~~§ 9-77.11~~ 30-152. Revision of the Code of Virginia; construction of statutes relating to titles amended.

44 The Code of Virginia shall continue to be gradually revised by revising one title at a time. The Commission shall
45 have the responsibility for drafting title revision and recodification bills for introduction into the General Assembly. During the
46 recodification or title revision process, the Commission shall evaluate the need for and recommend in a separate report, the
47 possible repeal of any section or provision relating to the revised title that has not been implemented during any of the
48 previous five years because sufficient funds were not appropriated by the General Assembly. The House Committee on
49 Appropriations and the Senate Committee on Finance shall assist the Commission in determining which sections and
50 provisions of the Code of Virginia meet these conditions for repeal. In the revision of each title, all other sections of the Code
51 of Virginia relating to the same subject matter shall be revised to the extent necessary. Whenever in a title revision or
52 recodification bill an existing section of a title of the Code of Virginia is repealed and replaced with a renumbered section and
53 that section so repealed was effective with an uncodified enactment, the repeal of that section, alone, shall not affect the

1 uncodified enactment. The title revision or recodification bill shall expressly repeal the uncodified enactment in order for the
2 enactment to be repealed.

3 Whenever, during any session of the General Assembly, there shall have been enacted any statute purporting to
4 revise, rearrange, amend, and recodify any title of the Code of Virginia, such statute shall be deemed to have been enacted
5 prior to any other statute enacted at such session adding to, repealing, or amending and reenacting any portion of such title.
6 Every such other statute shall be deemed to have so added to, repealed, or amended and reenacted, as the case may be,
7 such title as so revised, rearranged, amended, and recodified. Effect shall be given to any such other, or subsequent, statute
8 only to the extent of any apparent changes in the law as it existed prior to such session.

9 **DRAFTING NOTE:** Technical corrections only.

10 ~~§ 9-77.14:01~~ 30-153. Codification of rules of evidence.

11 The Commission shall have the responsibility for drafting rules of evidence for introduction into the General
12 Assembly in accordance with the recommendations of the Supreme Court as provided in subsection E of § 8.01-3-E. All other
13 sections of the Code of Virginia relating to evidentiary matters shall be revised to the extent necessary.

14 **DRAFTING NOTE:** Technical corrections only.

15 ~~§ 9-77.14:02~~ 30-154. Publication of Virginia State Bar advisory opinions.

16 The Commission, in conjunction with the Virginia State Bar, shall arrange for the incorporation of all advisory
17 opinions issued by the Virginia State Bar's Standing Committees on Legal Ethics and Unauthorized Practice of Law into the
18 Code of Virginia. Such opinions, including appropriate indices, may be incorporated into the Code of Virginia by the addition
19 of a volume to the Code and kept current by means of pocket parts or supplements and by replacement volumes.

20 **DRAFTING NOTE:** Technical corrections only.

21 ~~§ 9-77.42~~ 30-155. Responsibilities as to administrative law; appointment of Administrative Law Advisory Committee;
22 staff.

23 A. In conjunction with the responsibility granted to the Commission ~~of for publishing and maintaining an~~
24 ~~administrative code the Virginia Administrative Code~~ as set forth in ~~§ 9-77.7~~ 30-146, the Commission shall continually monitor
25 the operation of the Administrative Process Act (~~§ 9-6.14:1~~ 2.2-4000 et seq.) and the Virginia Register Act (~~§ 9-6.15~~ 2.2-
26 4100 et seq.) to ensure that those laws provide the most practical means to administrative agencies of the Commonwealth for
27 the promulgation, amendment and repeal of administrative law within the powers granted to such agencies by the General
28 Assembly, and to recommend from time to time such changes as it deems appropriate.

29 B. The Commission shall appoint an Administrative Law Advisory Committee to assist the Commission in fulfilling its
30 responsibilities under subsection A and shall name the chair.

31 1. The Advisory Committee shall be a legislative branch agency and shall consist of representatives from state
32 agencies, the Office of the Executive Secretary of the Supreme Court, the regulated communities, consumer and other public
33 interest groups, local governments, the bar and the academic community. The number of members shall be determined by
34 the Commission. Members shall serve two-year terms and shall be reimbursed for their expenses incurred in attending
35 meetings and other functions of the Advisory Committee.

36 2. The Advisory Committee shall submit an annual work plan and budget to the Commission for approval. Funds
37 necessary to support any such budget approved by the Commission shall be paid from sums appropriated to the
38 Commission. The Commission may authorize the Advisory Committee to undertake research projects, hire consultants,
39 sponsor conferences, hold public hearings, conduct surveys and engage in other efforts consistent with assisting the
40 Commission in fulfilling its responsibilities under subsection A. The Advisory Committee shall report its findings and
41 recommendations annually to the Code Commission, and that report shall be forwarded to the Governor and the General
42 Assembly.

43 ~~3. The Advisory Committee shall develop and submit a plan for the reduction of state agency regulations to the~~
44 ~~Commission by January 1, 1995.~~

45 ~~4.~~ Staff assistance shall be provided to the Advisory Committee by the Division of Legislative Services.

46 **DRAFTING NOTE:** Technical corrections. Existing Subdivision 3 has been deleted as obsolete.

47 CHAPTER 16.

48 VIRGINIA CRIME COMMISSION.

49 ~~§ 9-125~~ 30-156. Virginia Crime Commission-created; purpose; membership; terms; compensation.

50 ~~There is hereby created the A. The Virginia State Crime Commission, hereinafter referred to as (the "Commission")~~
51 is established in the legislative branch of state government. The purpose of the Commission shall be, ~~through the exercise of~~
52 ~~its powers and performance of its duties set forth in this chapter,~~ to study, report and make recommendations on all areas of

2 public safety and protection. In so doing it shall endeavor to ascertain the causes of crime and recommend ways to reduce
3 and prevent it, explore and recommend methods of rehabilitation of convicted criminals, study compensation of persons in
4 law enforcement and related fields and study other related matters including apprehension, trial and punishment of criminal
5 offenders. The Commission shall make such recommendations as it deems appropriate with respect to the foregoing matters,
6 and shall coordinate the proposals and recommendations of all commissions and agencies as to legislation affecting crimes,
7 crime control and criminal procedure. The Commission shall cooperate with the executive branch of state government, the
8 Attorney General's office and the judiciary who are in turn encouraged ~~hereby~~ to cooperate with the Commission. The
9 Commission will cooperate with governments and governmental agencies of other states and the United States.

10 B. The Commission shall consist of thirteen members to be appointed as follows: six members of the House of
11 Delegates to be appointed by the Speaker of the House of Delegates; three members of the Senate to be appointed by the
12 Senate Committee on Privileges and Elections; three citizen members to be appointed by the Governor; and the Attorney
13 General or his designee.

14 C. The term of each appointee shall be for four years, except that the Attorney General shall serve a term coincident
15 with his term of office. Whenever any legislative member fails to retain his membership in the house from which he was
16 appointed, his membership on the Commission shall become vacated and the appointing authority who appointed such
17 vacating member shall make an appointment from his respective house to fulfill the vacated term.

18 D. The Commission shall elect its own chairman annually.

19 E. Members of the Commission shall receive compensation as provided in § 30-19.12 and shall be reimbursed for all
20 reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825. All such expense
21 payments, however, shall come from existing appropriations to the Virginia Crime Commission.

22 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
23 A is § 9-125 and subsections B through E are § 9-126.

24 ~~§ 9-126. Membership; appointment; terms; vacancies; chairman; expenses.~~

25 ~~The Commission shall be composed of thirteen members: six shall be appointed by the Speaker of the House of~~
26 ~~Delegates from the membership thereof; three shall be appointed by the Privileges and Elections Committee of the Senate~~
27 ~~from the membership of the Senate; three shall be appointed by the Governor from the Commonwealth at large; and the~~
28 ~~Attorney General of Virginia or his designee shall serve as an ex officio member with full voting privileges. One half of the~~
29 ~~initial appointments made by the Speaker of the House of Delegates, and two thirds of the initial appointments made by the~~
30 ~~Governor and by the Privileges and Elections Committee of the Senate shall be members of the Virginia State Crime~~
31 ~~Commission created by House Joint Resolution No. 113 of the 1966 Regular Session of the General Assembly and continued~~
32 ~~by subsequent legislative action. The term of each appointee shall be for four years; with the exception of the Attorney~~
33 ~~General whose membership on the Commission shall be concurrent with his term as Attorney General of Virginia. Whenever~~
34 ~~any legislative member fails to retain his membership in the House from which he was appointed, his membership on the~~
35 ~~Commission shall become vacated and the appointing authority who appointed such vacating member shall make an~~
36 ~~appointment from his respective House to fulfill the vacated term. The Commission shall elect its own chairman annually.~~
37 ~~Members of the Commission shall receive compensation as provided in § 14.1-18 and shall be paid their necessary expenses~~
38 ~~incurred in the performance of their duties. Provided, however, that all such expense payments shall come from existing~~
39 ~~appropriations to the Virginia Crime Commission.~~

40 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 30-156
41 (existing § 9-125) supra.

42 ~~§ 9-134 30-157. Executive director, counsel and other personnel.~~

43 ~~The Commission shall be authorized to may appoint and employ and, at pleasure remove, an executive director,~~
44 ~~counsel, and such other persons as it may deem deems necessary; and to determine their duties and fix their salaries or~~
45 ~~compensation within the amounts appropriated therefor.~~

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 9-134 30-158. Powers enumerated and duties of Commission.~~

48 ~~With respect to the performance of its functions, duties and powers subject to limitations contained herein, the A.~~
49 ~~The Commission shall be authorized as follows have the power and duty to:~~

50 ~~a. To maintain 1. Maintain offices, hold meetings and functions at any place within the Commonwealth that it may~~
51 ~~deem deems necessary;~~

52 ~~b. To conduct 2. Conduct private and public hearings, and to designate a member of the Commission to preside over~~
53 ~~such hearings;~~

54 ~~e. Pursuant to a resolution adopted by a majority of the members of the Commission, witnesses attending appearing~~
55 ~~before the Commission may be examined privately and the Commission shall not make public the particulars of such~~

1 examination. The Commission shall not have the power to take testimony at private or public hearings unless at least three
2 its members are present at such hearings;

3 e. Witnesses appearing before the Commission at its request shall be entitled to receive the same fees and mileage
4 as persons summoned to testify in the courts of the Commonwealth, if such witnesses request such fees and mileage.

5 3. Conduct studies and gather information and data in order to accomplish its purposes as set forth in § 30-156, and
6 in connection with the faithful execution and effective enforcement of the laws of the Commonwealth with particular reference
7 but not limited to organized crime and racketeering, and formulate its recommendations to the Governor and the General
8 Assembly.

9 4. Submit an annual report of its recommendations to the Governor and the General Assembly. The Commission
10 shall make such further interim reports to the Governor and the General Assembly as it deems advisable or as required by
11 the Governor or by concurrent resolution of the General Assembly.

12 B. At the direction or request of the legislature by concurrent resolution or of the Governor, the Commission shall, or
13 at the request of any department, board, bureau, commission, authority or other agency created by the Commonwealth, or to
14 which the Commonwealth is a party, the Commission may, study the operations, management, jurisdiction, powers and
15 interrelationship of any such department, board, bureau, commission, authority or other agency that has any direct
16 responsibility for enforcing the criminal laws of the Commonwealth.

17 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subdivisions
18 1 and 2 of subsection A is § 9-134, subdivision 3 of subsection A is § 9-127, subdivision 4 of subsection A is § 9-132, and
19 subsection B is § 9-128.

20 ~~§ 9-127. Studies and recommendations generally.~~

21 ~~The Commission shall have the duty and power to make studies and to gather information and data in order to~~
22 ~~accomplish its purposes as set forth in § 9-125, and in connection with the faithful execution and effective enforcement of the~~
23 ~~laws of the Commonwealth with particular reference but not limited to organized crime and racketeering, and to formulate its~~
24 ~~recommendations to the Governor and the General Assembly.~~

25 **DRAFTING NOTE:** Technical corrections. This section now appears as subdivision 3 of subsection A in proposed § 30-158
26 (existing § 9-134) supra.

27 ~~§ 9-128. Studies of operations, etc., of law enforcement agencies.~~

28 ~~At the direction or request of the legislature by concurrent resolution or of the Governor, the Commission shall, or~~
29 ~~the request of any department, board, bureau, commission, authority or other agency created by the Commonwealth, or to~~
30 ~~which the Commonwealth is a party, the Commission may, study the operations, management, jurisdiction, powers and~~
31 ~~interrelationship of any such department, board, bureau, commission, authority or other agency, which has any direct~~
32 ~~responsibility for enforcing the criminal laws of the Commonwealth.~~

33 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 30-158 (existing § 9-134)
34 supra.

35 ~~§ 9-132. Reports to Governor and General Assembly.~~

36 ~~The Commission shall make an annual report to the Governor and the General Assembly, which report shall include~~
37 ~~its recommendations. The Commission shall make such further interim reports to the Governor and the General Assembly as~~
38 ~~it shall deem advisable or as shall be required by the Governor or by concurrent resolution of the General Assembly.~~

39 **DRAFTING NOTE:** Technical corrections. This section now appears as subdivision 4 of subsection A in proposed § 30-158
40 (existing § 9-134) supra.

41 ~~§ 9-136 30-159. Cooperation of other state agencies; consultation with other states.~~

42 ~~A. The Commission may request and shall receive from every department, division, board, bureau, commission,~~
43 ~~authority or other agency created by this the Commonwealth, or to which the Commonwealth is a party or any political~~
44 ~~subdivision thereof, cooperation and assistance in the performance of its duties.~~

45 ~~B. The Commission shall examine matters relating to law enforcement extending across the boundaries of the~~
46 ~~Commonwealth into other states; and may consult and exchange information with officers and agencies of other states with~~
47 ~~respect to law-enforcement problems of mutual concern to this and other states.~~

48 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
49 A is § 9-136 and subsection B is § 9-129.

50 ~~§ 9-129. Cooperation with agencies of other states.~~

1 ~~The Commission shall examine matters relating to law enforcement extending across the boundaries of the~~
2 ~~Commonwealth into other states; and may consult and exchange information with officers and agencies of other states with~~
3 ~~respect to law enforcement problems of mutual concern to this and other states.~~

4 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 30-159 (existing § 9-136)
5 supra.

6 ~~§ 9-130~~ 30-160. Commission to refer cases of crime or official misconduct to appropriate authorities.

7 Whenever it ~~shall appear~~ appears to the Commission that there is reasonable cause, for official investigation or
8 prosecution ~~for of~~ a crime, or for the removal of a public officer for misconduct, the Commission shall refer the matter and
9 such information as has come to its attention to the officials authorized and having the duty and authority to conduct
10 investigations or to prosecute criminal offenses, or to remove such public officer, or to the judge of an appropriate court of
11 record with recommendation that a special grand jury be convened.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 9-133~~ 30-161. Publication of information.

14 By such means and to such extent as it ~~shall deem~~ deems appropriate, the Commission shall keep the public
15 informed as to the operations of organized crime, problems of criminal law enforcement in the Commonwealth and other
16 activities of the Commission.

17 **DRAFTING NOTE:** Technical corrections only.

18 ~~§ 9-137~~ 30-162. Disclosure of certain information by employee a misdemeanor.

19 Any employee of the Commission who ~~shall disclose~~ discloses to any person other than the Commission or an
20 officer having the power to appoint one or more of the Commissioners the name of any witness appearing before the
21 Commission in a private hearing or ~~disclose~~ discloses any information obtained or given in a private hearing except as
22 directed by the Governor, a court of record or the Commission, shall be guilty of a Class 1 misdemeanor.

23 **DRAFTING NOTE:** Technical corrections only.

24 ~~§ 9-138~~ 30-163. Impounding of certain documents.

25 Upon the application of the Commission or duly authorized member of its staff, the judge of any court of record may
26 impound any exhibit or document received or obtained in any public or private hearing held in connection with a hearing
27 conducted by the Commission, and may order such exhibit to be retained by, or delivered to and placed in custody of the
28 Commission, ~~provided such~~. The order may be rescinded by further order of the court made after five days' notice to the
29 Commission or upon its application or with its consent, all in the discretion of the court.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 9-135~~ 30-164. Construction of chapter.

32 Nothing contained in this chapter shall be construed to supersede, repeal or limit any power, duty or function of the
33 Governor or any department or agency of ~~this the~~ the Commonwealth, or any political subdivision thereof, as prescribed or
34 defined by law.

35 **DRAFTING NOTE:** Technical corrections only.

36 CHAPTER 17.

37 JOINT COMMISSION ON BEHAVIORAL HEALTH CARE.

38 ~~§ 9-300. (Effective until July 1, 2003)~~ 30-165. Joint Commission on Behavioral Health Care ~~created~~; purpose;
39 membership; terms; compensation; staff.

40 ~~There is hereby created, as a legislative agency, the A. The~~ The Joint Commission on Behavioral Health Care, ~~referred~~
41 ~~to in this chapter as (the "Commission")~~ is established in the legislative branch of state government. The purpose of the
42 Commission is to study, report and make recommendations for continuous improvement in all areas of publicly funded
43 behavioral health care policy, management, financing, service delivery, regulation and evaluation. The Commission shall
44 endeavor to ensure that the Commonwealth as financier, regulator, and provider adopts the most cost-effective and
45 efficacious means of delivering behavioral health care so that the greatest number of Virginians in need of care receive
46 quality behavioral health care. Further, the Commission shall encourage the development of uniform policies and services to
47 ensure the availability of quality, affordable and accessible behavioral health care services and provide a forum for continuing
48 the review, study and improvement of programs and services.

49 The Commission shall cooperate and collaborate with the Joint Commission on Health Care as established in § 9-
50 311 on matters of mutual concern.

1 The Commission may make recommendations and coordinate the proposals and recommendations of all
2 commissions and agencies as to legislation and budget amendments affecting the delivery of publicly funded behavioral
3 health care.

4 B. The Commission shall consist of fourteen members as follows: three members of the Senate and one citizen who
5 shall be a consumer or a family member of a consumer to be appointed by the Senate Committee on Privileges and
6 Elections; five members of the House of Delegates to be appointed by the Speaker of the House, in accordance with Rule 16
7 of the Rules of the House of Delegates; and two citizens, one of whom shall be a consumer or a family member of a
8 consumer to be appointed by the Speaker of the House; and the Secretary of Health and Human Resources, the
9 Commissioner of Mental Health, Mental Retardation and Substance Abuse Services and the Director of Medical Assistance
10 Services, who shall serve ex officio without voting privileges.

11 C. Legislative members' terms shall be coincident with their terms of office. Whenever any legislative member fails to
12 retain his membership in the house from which he was appointed, his membership shall be vacated, and the vacancy shall be
13 filled in the original manner. Subsequent appointments shall be made for similar terms, and vacancies shall be filled for the
14 unexpired terms by the persons authorized to make the original appointments.

15 D. The members of the Commission shall elect a chairman and vice-chairman from among its members.

16 E. Legislative members of the Commission shall receive compensation as provided in § 30-19.12, and all members
17 shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-
18 2825. All such expense payments, however, shall come from existing appropriations to the Commission.

19 F. The Commission may appoint, employ, and remove an executive director and one administrative person, and
20 determine their duties and fix their salaries or compensation within the amounts appropriated therefor. The Commission may
21 also obtain such assistance as it may deem necessary from other legislative and executive agencies and may employ experts
22 who have special knowledge of the issues before it.

23 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
24 A is § 9-390; subsections B through E are § 9-391; and subsection F is § 9-393.

25 ~~§ 9-391. (Effective until July 1, 2003) Membership; compensation.~~

26 ~~The Commission shall be composed of fourteen members: three members of the Senate and one citizen who shall~~
27 ~~be a consumer or a family member of a consumer to be appointed by the Senate Committee on Privileges and Elections; five~~
28 ~~members of the House of Delegates to be appointed by the Speaker of the House, in accordance with Rule 16 of the Rules of~~
29 ~~the House of Delegates; and two citizens, one of whom shall be a consumer or a family member of a consumer to be~~
30 ~~appointed by the Speaker of the House; and the Secretary of Health and Human Resources, the Commissioner of Mental~~
31 ~~Health, Mental Retardation and Substance Abuse Services and the Director of Medical Assistance Services, who shall serve~~
32 ~~ex officio without voting privileges.~~

33 ~~Legislative members' terms shall be coincident with their terms of office. Whenever any legislative member fails to~~
34 ~~retain his membership in the house from which he was appointed, his membership shall be vacated, and the vacancy shall be~~
35 ~~filled in the original manner. Subsequent appointments shall be made for similar terms, and vacancies shall be filled for the~~
36 ~~unexpired terms by the persons authorized to make the original appointments. The members of the Commission shall elect a~~
37 ~~chairman and vice-chairman from among its members.~~

38 ~~Legislative members of the Commission shall receive compensation as provided in § 30-19.12, and all members~~
39 ~~shall be reimbursed for their necessary expenses incurred in the performance of their duties. All such expense payments,~~
40 ~~however, shall come from existing appropriations to the Joint Commission on Behavioral Health Care.~~

41 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 30-165
42 (existing § 9-391) supra.

43 ~~§ 9-392. (Effective until July 1, 2003) 30-166. Duties and powers Powers and duties of Commission.~~

44 ~~The Commission shall have the duty and power and duty to study and gather information and data to accomplish its~~
45 ~~purpose as set forth in § 9-390-30-165 and to report its recommendations to the Governor and the General Assembly.~~

46 ~~The Chairman of the Commission shall have the authority to invite other interested parties to sit with the Commission~~
47 ~~and to participate in its deliberations without compensation by the Commission.~~

48 ~~The Commission shall study the operations, management, jurisdiction, powers and interrelationships of any~~
49 ~~department, board, bureau, commission, authority or other agency with any direct responsibility for the provision and delivery~~
50 ~~of behavioral health care in the Commonwealth.~~

51 ~~The Commission shall examine matters relating to behavioral health services in other states and shall consult and~~
52 ~~exchange information with officers and agencies of other states with respect to behavioral health service problems of mutual~~
53 ~~concern. The Commission may maintain offices and may hold meetings and functions at any place within the Commonwealth~~
54 ~~as it may deem necessary.~~

2 The Commission shall make an annual report to the Governor and the General Assembly that shall include its
3 recommendations. The Commission shall make such further interim reports to the Governor and the General Assembly as it
4 shall deem advisable or as shall be required by the Governor or the General Assembly.

5 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: the first four
6 paragraphs are § 9-392 and the last paragraph is § 9-394.

7 ~~§ 9-393. (Effective until July 1, 2003) Staff and staff support.~~

8 ~~The Commission shall be authorized to appoint, employ, and remove an executive director and one administrative~~
9 ~~person, and to determine their duties and fix their salaries or compensation within the amounts appropriated therefor. The~~
10 ~~Commission may also obtain such assistance as it may deem necessary from other legislative and executive agencies and~~
11 ~~may employ experts who have special knowledge of the issues before it.~~

12 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection F in proposed § 30-165 (existing § 9-390)
13 supra.

14 ~~§ 9-394. (Effective until July 1, 2003) Annual report.~~

15 ~~The Commission shall make an annual report to the Governor and the General Assembly which shall include its~~
16 ~~recommendations. The Commission shall make such further interim reports to the Governor and the General Assembly as it~~
17 ~~shall deem advisable or as shall be required by the Governor or the General Assembly.~~

18 **DRAFTING NOTE:** Technical corrections. This section now appears as the last paragraph in proposed § 30-166 (existing §
19 9-392) supra.

20 ~~§ 9-395. (Effective until July 1, 2003) 30-167. Sunset.~~

21 The provisions of this chapter shall expire on July 1, 2003.

22 **DRAFTING NOTE:** Technical corrections only.

23 CHAPTER 18.

24 JOINT COMMISSION ON HEALTH CARE.

25 ~~§ 9-344 30-168. Joint Commission created on Health Care; purpose; membership; terms; compensation; staff.~~

26 ~~There is hereby created, as a legislative agency, the A. The Joint Commission on Health Care, hereinafter referred~~
27 ~~to as (the "Commission") is established in the legislative branch of state government. The purpose of the Commission is to~~
28 ~~study, report and make recommendations on all areas of health care provision, regulation, insurance, liability, licensing, and~~
29 ~~delivery of services. In so doing, the Commission shall endeavor to ensure that the Commonwealth as provider and regulator~~
30 ~~adopts the most cost-effective and efficacious means of delivery of health care services so that the greatest number of~~
31 ~~Virginians receive quality health care. Further, the Commission shall encourage the development of uniform policies and~~
32 ~~services to ensure the availability of quality, affordable and accessible health services and provide a forum for continuing the~~
33 ~~review and study of programs and services.~~

34 The Commission may make recommendations and coordinate the proposals and recommendations of all
35 commissions and agencies as to legislation affecting the provision and delivery of health care.

36 B. The Commission shall consist of sixteen legislative members as follows: seven members of the Senate to be
37 appointed by the Senate Committee on Privileges and Elections, and nine members of the House of Delegates, three of
38 whom shall be members of the Committee on Health, Welfare and Institutions to be appointed by the Speaker of the House of
39 Delegates.

40 C. Members of the Commission shall serve for five-years terms. Whenever any legislative member fails to retain his
41 membership in the house from which he was appointed, his membership shall be vacated, and the appointing authority who
42 appointed such vacating member shall make an appointment from his respective house to fulfill the vacated term.

43 D. The members of the Commission shall elect a chairman and vice-chairman.

44 E. Members of the Commission shall receive compensation as provided in § 30-19.12 and shall reimbursed for all
45 reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825. However, all such
46 expense payments shall come from existing appropriations to the Commission.

47 F. The Commission may appoint, employ, and remove an executive director and such other persons as it deems
48 necessary, and determine their duties and fix their salaries or compensation within the amounts appropriated therefor. The
49 Commission may also obtain such assistance as it deems necessary from other legislative and executive agencies and may
50 employ experts who have special knowledge of the issues before it.

51 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
A is § 9-311, subsections B through E are § 9-312, and subsection F is § 9-314.

1 ~~§ 9-312. Membership; compensation.~~

2 The Commission shall be composed of sixteen legislative members: seven members of the Senate to be appointed
3 by the Senate Committee on Privileges and Elections, and nine members of the House of Delegates of whom three shall be
4 members of the Committee on Health, Welfare and Institutions to be appointed by the Speaker of the House.

5 The term of each appointee shall be for five years. Whenever any legislative member fails to retain his membership
6 in the house from which he was appointed, his membership shall be vacated, and the appointing authority who appointed
7 such vacating member shall make an appointment from his respective house to fulfill the vacated term. The members of the
8 Commission shall elect a chairman and vice chairman.

9 Members of the Commission shall receive compensation as provided in § 14.1-18 and shall be paid their necessary
10 expenses incurred in the performance of their duties. All such expense payments, however, shall come from existing
11 appropriations to the Joint Commission on Health Care.

12 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 30-168
13 (existing § 9-311) supra.

14 ~~§ 9-313 30-169. Duties and powers~~ Powers and duties of Commission.

15 The Commission shall have the ~~duty and power~~ power and duty to study and to gather information and data to
16 accomplish its purposes as set forth in ~~§ 9-314 30-168~~ and to report its recommendations to the Governor and the General
17 Assembly.

18 The Chairman of the Commission shall have the authority to invite other interested parties to sit with the Commission
19 and to participate in its deliberations.

20 The Commission shall study the operations, management, jurisdiction, powers and interrelationships of any
21 department, board, bureau, commission, authority or other agency with any direct responsibility for the provision and delivery
22 of health care in the Commonwealth.

23 The Commission shall examine matters relating to health services in other states and shall consult and exchange
24 information with officers and agencies of other states with respect to health-service problems of mutual concern. The
25 Commission may maintain offices and may hold meetings and functions at any place within the Commonwealth that it may
26 deem ~~deems~~ necessary.

27 The Commission shall make an annual report of its recommendations to the Governor and the General Assembly
28 The Commission shall make such further interim reports to the Governor and the General Assembly as it deems advisable (
29 as required by the Governor or the General Assembly.

30 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections; the first four
31 paragraphs are § 9-313 and the last paragraph is § 9-315.

32 ~~§ 9-314. Staff and staff support.~~

33 The Commission shall be authorized to appoint, employ, and remove an executive director and such other persons
34 as it may deem necessary and to determine their duties and fix their salaries or compensation within the amounts
35 appropriated therefor. The Commission may also obtain such assistance as it may deem necessary from other legislative
36 and executive agencies and may employ experts who have special knowledge of the issues before it.

37 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection F in proposed § 30-168 (existing § 9-311)
38 supra.

39 ~~§ 9-315. Annual report.~~

40 The Commission shall make an annual report to the Governor and the General Assembly, which shall include its
41 recommendations. The Commission shall make such further interim reports to the Governor and the General Assembly as it
42 shall deem advisable or as shall be required by the Governor or the General Assembly.

43 **DRAFTING NOTE:** Technical corrections. This section now appears as the last paragraph of proposed § 30-169 (existing §
44 9-313) supra.

45 ~~§ 9-316 30-170. Sunset.~~

46 The provisions of this chapter shall expire on July 1, 2002.

47 **DRAFTING NOTE:** Technical corrections only.

48 CHAPTER 19.

49 VIRGINIA COMMISSION ON INTERGOVERNMENTAL COOPERATION.

50 ~~§ 9-53 30-171. (Effective January 12, 2000) Establishment of Virginia Commission on Intergovernmental~~
51 ~~Cooperation; membership; duties; appointments; staff.~~

1 ~~There is hereby established, in the legislative branch, the A. The Virginia Commission on Intergovernmental~~
2 ~~Cooperation, which (the "Commission") is established in the legislative branch of state government. The Commission shall~~
3 ~~consist of the following members: (i) the members of the Commission on Interstate Cooperation of the Senate, (ii) the~~
4 ~~members of the House Committee on Interstate Cooperation of the House of Delegates, and (iii) the Clerk of the Senate and~~
5 ~~the Clerk of the House of Delegates who shall serve as ex officio, nonvoting members of the Commission.~~

6 ~~B. The chairman and vice-chairman of the Commission shall serve for a period of two years, and the chairmanship~~
7 ~~and vice-chairmanship shall alternate between the chairman of the Senate Commission on Interstate Cooperation and the~~
8 ~~chairman of the House Committee on Interstate Cooperation.~~

9 ~~C. The Commission on Intergovernmental Cooperation shall select such officials of state government as it deems~~
10 ~~proper to serve as ex officio, nonvoting members of the Commission for terms of four years each.~~

11 ~~D. The Division of Legislative Services shall furnish upon request such staff assistance and services to the~~
12 ~~Commission and its committees as may be required to carry forth the charge of the Commission.~~

13 ~~The Commission shall:~~

- 14 ~~1. Encourage and arrange conferences with officials of other states and other units of government;~~
- 15 ~~2. Carry forward the participation of Virginia as a member of the Council of State Governments, both regionally and~~
16 ~~nationally;~~
- 17 ~~3. Formulate proposals for cooperation between Virginia and other states;~~
- 18 ~~4. Establish such committees as it deems advisable to conduct conferences and formulate proposals concerning~~
19 ~~subjects of interstate cooperation;~~
- 20 ~~5. Monitor and evaluate the Commonwealth's participation in interstate compacts;~~
- 21 ~~6. Review, evaluate, and recommend suggested uniform state legislation;~~
- 22 ~~7. Require, at its discretion, from any appointee representing Virginia on any interstate compact, commission,~~
23 ~~committee, or board, a report on that organization's work and accomplishments;~~
- 24 ~~8. Review, evaluate, and make recommendations concerning federal policies which are of concern to the~~
25 ~~Commonwealth;~~
- 26 ~~9. Establish such committees as deemed advisable and designate the members of every such committee. State~~
27 ~~officials who are not members of the Commission may be appointed as members of any such committee, but at least one~~
28 ~~member of the Commission shall be a member of every such committee; and~~
- 29 ~~10. Appoint persons drawn from the membership of the Senate, the membership of the House of Delegates, and~~
30 ~~officials of state and local government to serve on these intergovernmental boards, committees, and commissions as to which~~
31 ~~the Commonwealth is entitled to such appointment, or is invited to make such appointment; provided that members of the~~
32 ~~General Assembly shall be appointed as follows:~~
 - 33 ~~a. If an appointment be made from the membership of the Senate, such an appointment shall be made by the~~
34 ~~Commission on Interstate Cooperation of the Senate and shall be approved by the Committee on Privileges and Elections of~~
35 ~~the Senate; and~~
 - 36 ~~b. If an appointment be made from the membership of the House of Delegates, such appointment shall be made by~~
37 ~~the Committee on Interstate Cooperation of the House of Delegates and shall be approved by the Speaker of the House of~~
38 ~~Delegates.~~

39 ~~The Commission may provide such rules as it considers appropriate concerning the membership and the functioning~~
40 ~~of any committee established.~~

41 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
42 A is the first paragraph of § 9-53, subsections B and C are § 9-55 and subsection D is § 9-55.1. The language shown as
43 stricken has been moved to proposed § 30-172, Powers and Duties of the Commission, infra.

44 § 30-172. Powers and duties of Commission.

45 The Commission shall have the power and duty to:

- 46 1. Encourage and arrange conferences with officials of other states and other units of government;
- 47 2. Carry forward the participation of Virginia as a member of the Council of State Governments, both regionally and
48 nationally;
- 49 3. Formulate proposals for cooperation between Virginia and other states;
- 50 4. Establish such committees as it deems advisable to conduct conferences and formulate proposals concerning
51 subjects of interstate cooperation;
- 52 5. Monitor and evaluate the Commonwealth's participation in interstate compacts;
- 53 6. Review, evaluate, and recommend suggested uniform state legislation;

1 7. Require, at its discretion, from any appointee representing Virginia on any interstate compact, commission,
2 committee, or board, a report on that organization's work and accomplishments;

3 8. Review, evaluate, and make recommendations concerning federal policies which that are of concern to the
4 Commonwealth;

5 9. Establish such committees as deemed advisable and designate the members of every such committee. State
6 officials who are not members of the Commission may be appointed as members of any such committee, but at least one
7 member of the Commission shall be a member of every such committee; and

8 10. Appoint persons drawn from the membership of the Senate, the membership of the House of Delegates, and
9 officials of state and local government to serve on those intergovernmental boards, committees, and commissions as to which
10 the Commonwealth is entitled to such appointment, or is invited to make such appointment; provided that members of the
11 General Assembly shall be appointed as follows:

12 a. If an appointment be made from the membership of the Senate, such an appointment shall be made by the
13 Commission on Interstate Cooperation of the Senate and shall be approved by the Committee on Privileges and Elections of
14 the Senate; and

15 b. If an appointment be made from the membership of the House of Delegates, such appointment shall be made by
16 the Committee on Interstate Cooperation of the House of Delegates and shall be approved by the Speaker of the House of
17 Delegates.

18 The Commission may provide such rules as it considers appropriate concerning the membership and the functioning
19 of any committee established.

20 **DRAFTING NOTE:** Technical corrections. This proposed section is derived from existing § 9-53 supra.

21 ~~§ 9-54 30-173. Commission of Senate and standing committee of House of Delegates on interstate cooperation~~
22 ~~Interstate Cooperation.~~

23 ~~A. There is hereby established a Commission on Interstate Cooperation of the Senate, to consist of six senators.~~
24 ~~The members and chairman of this Commission shall be designated by the Senate Committee on Privileges and Elections of~~
25 ~~the Senate.~~

26 ~~B. There is hereby established a standing Committee on Interstate Cooperation of the House of Delegates, also to~~
27 ~~consist of six members; and the members and chairman of this Committee shall be designated in the same manner as is~~
28 ~~customary in the case of the members and chairmen of other standing committees of the House of Delegates.~~

29 ~~C. Such bodies of the Senate and of the House of Delegates shall function during the regular sessions of the~~
30 ~~General Assembly and also during the interim periods between such sessions. Their members shall serve until their~~
31 ~~successors are designated.~~

32 **DRAFTING NOTE:** Technical corrections only.

33 ~~§ 9-55. Members of Commission; chairman.~~

34 ~~The Commission on Intergovernmental Cooperation shall be composed of the following members: (i) the members of~~
35 ~~the Commission on Interstate Cooperation of the Senate, (ii) the members of the Committee on Interstate Cooperation of the~~
36 ~~House of Delegates, and (iii) the Clerk of the Senate and the Clerk of the House of Delegates who shall serve as ex officio,~~
37 ~~nonvoting members of the Commission. The chairman and vice chairman of the Commission shall serve for a period of two~~
38 ~~years, and the chairmanship and vice chairmanship shall alternate between the chairman of the Senate Commission on~~
39 ~~Interstate Cooperation and the chairman of the House Committee on Interstate Cooperation.~~

40 ~~The Commission on Intergovernmental Cooperation shall select such officials of state government as to it shall seem~~
41 ~~proper to serve as ex officio members of the Commission without vote for terms of four years each.~~

42 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B and C of proposed § 30-171 (existing
43 § 9-53) supra.

44 ~~§ 9-55.1. Division of Legislative Services to furnish assistance and services.~~

45 ~~The Division of Legislative Services shall furnish upon request such staff assistance and services to the Commission~~
46 ~~and its committees as may be required to carry forth the charge of the Commission.~~

47 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection D in proposed § 30-171 (existing § 9-53)
48 supra.

49 CHAPTER 20.

50 VIRGINIA COMMISSION ON YOUTH.

51 ~~§ 9-292 30-174. Virginia Commission created on Youth; purpose; membership; terms; compensation.~~

2 ~~There is hereby created the~~ A. The Virginia Commission on Youth, hereinafter referred to as (the "Commission") is
3 established in the legislative branch of state government. The purpose of the Commission shall be, through the exercise of
4 its powers and performance of its duties set forth in this chapter, to study and provide recommendations addressing the
5 needs of and services to the Commonwealth's youth and their families. In so doing, it shall encourage the development of
6 uniform policies and services to youth across the Commonwealth and provide a forum for continuing review and study of such
7 services. In addition to its own proposals, the Commission shall coordinate the proposals and recommendations of all
8 commissions and agencies as to legislation affecting youth.

9 B. The Commission shall consist of twelve members to be appointed as follows: six members of the House of
10 Delegates to be appointed by the Speaker of the House of Delegates; three members of the Senate to be appointed by the
11 Senate Committee on Privileges and Elections; and three citizen members to be appointed by the Governor.

12 C. All appointments shall be for a term of four years each. Vacancies shall be filled for the unexpired terms.
13 Whenever any legislative member fails to retain his membership in the house from which he was appointed, he shall
14 relinquish his membership on the Commission and the appointing authority who appointed such member shall make an
15 appointment from his respective house to complete the term.

16 D. The Commission shall elect its chairman annually.

17 E. Members of the Commission shall receive compensation as provided in § 30-19.12 and shall be reimbursed for all
18 reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825. However, all such
19 expense payments shall come from existing appropriations to the Commission.

20 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
21 A is § 9-292 and subsections B through E are § 9-293.

22 ~~§ 9-293. Membership; terms; vacancies; chairman; expenses.~~

23 ~~The Commission shall be composed of twelve members, six of whom shall be appointed by the Speaker of the~~
24 ~~House of Delegates from the membership thereof, three of whom shall be appointed by the Privileges and Elections~~
25 ~~Committee of the Senate from the membership of the Senate, and three of whom shall be appointed by the Governor from the~~
26 ~~Commonwealth at large. All appointments shall be for a term of four years each. Vacancies shall be filled for the unexpired~~
27 ~~terms. Whenever any legislative member fails to retain his membership in the house from which he was appointed, he shall~~
28 ~~relinquish his membership on the Commission and the appointing authority who appointed such member shall make an~~
29 ~~appointment from his respective house to complete the term. The Commission shall elect its chairman annually. Members of~~
30 ~~the Commission shall receive compensation as provided in § 14.1-18 and shall be paid their necessary expenses incurred in~~
31 ~~the performance of their duties. However, all such expense payments shall come from existing appropriations to the Virginia~~
32 ~~Commission on Youth.~~

33 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 30-174
(existing § 9-293) supra.

34 ~~§ 9-294~~ 30-175. Powers and duties of the Commission.

35 The Commission shall have the ~~following powers and duties~~ power and duty to:

36 1. ~~To undertake~~ Undertake studies and to gather information and data in order to accomplish its purposes as set
37 forth in ~~§ 9-292~~ 30-174, and to formulate and present its recommendations to the Governor and the General Assembly.

38 2. At the direction or request of the legislature by concurrent resolution or of the Governor, or at the request of any
39 department, board, bureau, commission, authority or other agency created by the Commonwealth or to which the
40 Commonwealth is party, to study the operations, management, jurisdiction or powers of any such department, board, bureau,
41 commission, authority or other agency which has responsibility for services to youth.

42 **DRAFTING NOTE:** Technical corrections only.

43 ~~§ 9-295~~ 30-176. Executive director; staff; compensation.

44 The Commission ~~is authorized to~~ may appoint and employ and, at its pleasure, remove an executive director and
45 such other persons as it ~~may deem~~ deems necessary to assist it in carrying out its duties as set forth in this chapter. The
46 Commission ~~is authorized to~~ may determine the duties of such staff and ~~to fix~~ their salaries or compensation within the
47 amounts appropriated therefor.

48 **DRAFTING NOTE:** Technical corrections only.

49 ~~§ 9-296~~ 30-177. Cooperation of other state agencies.

50 The Commission may request and shall receive from every department, division, board, bureau, commission,
51 authority or other agency created by ~~the~~ the Commonwealth, or to which the Commonwealth is party, or from any political
52 subdivision of the Commonwealth, cooperation and assistance in the performance of its duties.

53 **DRAFTING NOTE:** Technical corrections only.

1 | CHAPTER 21.

2 | VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL.

3 | ~~§ 2-1-346.2. (Effective until July 1, 2002) 30-178.~~ Virginia Freedom of Information Advisory Council; membership;
4 | terms; quorum; compensation.

5 | A. The Virginia Freedom of Information Advisory Council (the Council) is hereby created as an advisory council in
6 | the legislative branch to encourage and facilitate compliance with the Freedom of Information Act.

7 | B. The Council shall consist of twelve members as follows: the Attorney General or his designee; the Librarian of
8 | Virginia or his designee; the Director of the Division of Legislative Services or his designee; four members appointed by the
9 | Speaker of the House of Delegates, one of whom shall be a member of the House of Delegates, and three citizen members,
10 | at least one of whom shall be or have been a representative of the news media; three members appointed by the Senate
11 | Committee on Privileges and Elections, one of whom shall be a member of the Senate, one of whom shall be or have been an
12 | officer of local government, and one citizen member; and two citizen members appointed by the Governor, one of whom shall
13 | not be a state employee. The local government representative shall be selected from a list recommended by the Virginia
14 | Association of Counties and the Virginia Municipal League. The citizen members may be selected from a list recommended
15 | by the Virginia Press Association, the Virginia Association of Broadcasters, and the Virginia Coalition for Open Government,
16 | after due consideration of such list by the appointing authorities.

17 | ~~B-C.~~ Initial appointments to the Council shall be for the following terms: of those nonlegislative members appointed
18 | by the Speaker of the House of Delegates, one shall serve a four-year term, one shall serve a three-year term and one shall
19 | serve a two-year term; of those nonlegislative members appointed by the Senate Committee on Privileges and Elections, one
20 | shall serve a four-year term and one shall serve a three-year term; and of those members appointed by the Governor, one
21 | shall serve a four-year term and one shall serve a three-year term. Thereafter, all such appointments shall be for terms of four
22 | years, except that appointments to fill vacancies shall be for the unexpired terms in the same manner as the original
23 | appointment. No member shall be eligible to serve for more than two successive four-year terms. However, after the
24 | expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a
25 | vacancy, two additional terms may be served by such member if appointed thereto. Legislative members and other state
26 | government officials shall serve terms coincident with their terms of office.

27 | ~~C-D.~~ The members of the Council shall elect from among their membership a chairman and a vice-chairman for two-
28 | year terms. The chairman and vice-chairman may not succeed themselves to the same position. The Council shall hold
29 | meetings quarterly or upon the call of the chairman. A majority of the Council shall constitute a quorum.

30 | ~~D-E.~~ Members of the Council shall receive no compensation for their services but shall be reimbursed for all
31 | reasonable and necessary expenses incurred in the discharge of their duties as provided in §§ ~~2-1-20, 10-2-2-2825~~ and 30-
32 | 19.12, as appropriate.

33 | **DRAFTING NOTE:** Technical corrections only.

34 | ~~§ 2-1-346.3. (Effective until July 1, 2002) 30-179.~~ Powers and duties of the Council.

35 | The Council shall:

36 | 1. Furnish, upon request, advisory opinions or guidelines, and other appropriate information regarding the Freedom
37 | of Information Act (§ ~~2-1-3402.2-3700~~ et seq.) to any person or agency of state or local government, in an expeditious
38 | manner;

39 | 2. Conduct training seminars and educational programs for the members and staff of public bodies and other
40 | interested persons on the requirements of the Freedom of Information Act (§ ~~2.2-3700 et seq.~~);

41 | 3. Publish educational materials as it deems appropriate on the provisions of the Freedom of Information Act (§ ~~2.2-~~
42 | ~~3700 et seq.~~);

43 | 4. Request from any agency of state or local government such assistance, services and information as will enable
44 | the Council to effectively carry out its responsibilities. Information provided to the Council by an agency of state or local
45 | government shall not be released to any other party unless authorized by such agency; and

46 | 5. Report annually on or before December 1 of each year on its activities and findings regarding the Freedom of
47 | Information Act, including recommendations for changes in the law, to the Governor and the General Assembly.

48 | **DRAFTING NOTE:** Technical corrections only.

49 | ~~§ 2-1-346.4. (Effective until July 1, 2002) 30-180.~~ Staff.

50 | Staff assistance to the Council shall be provided by the Division of Legislative Services. Staff shall perform those
51 | duties assigned to it by the Council.

52 | **DRAFTING NOTE:** Technical corrections only.

53 | ~~§ 2-1-346.5. (Effective until July 1, 2002) 30-181.~~ Cooperation of agencies of state and local government.

1 Every department, division, board, bureau, commission, authority or political subdivision of the Commonwealth shall
2 cooperate with, and provide such assistance to, the Council as the Council may request.

3 **DRAFTING NOTE:** Technical corrections only.

4 CHAPTER 22.

5 SMALL BUSINESS COMMISSION.

6 ~~§ 9-336 30-182.~~ Small Business Commission ~~established; purpose; membership; terms; compensation; staff.~~

7 ~~A. The Small Business Commission (the "Commission") is hereby established as a in the legislative agency of the~~
8 ~~Commonwealth and is hereafter referred to in this chapter as the "Commission," branch of state government. The purpose of~~
9 ~~the Commission shall be, through the exercise of its powers and performance of its duties set forth in this chapter, to study,~~
10 ~~report and make recommendations on issues of concern to small businesses in the Commonwealth.~~

11 ~~B. The Commission shall consist of fourteen members to be appointed as follows: six members of the House of~~
12 ~~Delegates to be appointed by the Speaker of the House; four members of the Senate to be appointed by the Senate~~
13 ~~Committee on Privileges and Elections; and four citizen members, each of whom shall have previously demonstrated small~~
14 ~~business experience or expertise, to be appointed by the Governor.~~

15 ~~All appointments to the Commission shall be for terms of four years. Vacancies occurring other than by expiration of~~
16 ~~term shall be filled for the unexpired term. Whenever any legislative member fails to retain his membership in the house from~~
17 ~~which he was appointed, he shall relinquish his membership on the Commission and the appointing authority who appointed~~
18 ~~such member shall make an appointment from his respective house to complete the term. Any member may be reappointed~~
19 ~~for successive terms.~~

20 ~~C. The members of the Commission shall elect a chairman and a vice-chairman annually.~~

21 ~~D. Legislative members of the Commission shall receive such compensation as is set forth in § 30-19.12, and all~~
22 ~~members shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided~~
23 ~~in § 2.2-2825.~~

24 ~~E. The Division of Legislative Services shall serve as staff to the Commission. All agencies of the Commonwealth~~
25 ~~shall assist the Commission upon request.~~

26 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
27 A is § 9-336, subsections B through D are § 9-337, and subsection E is § 9-339.

28 ~~§ 9-337. Membership; terms; vacancies; chairman and vice chairman; compensation.~~

29 ~~A. The Commission shall consist of 14 members as follows: six members from the House of Delegates, to be~~
30 ~~appointed by the Speaker of the House; four members from the Senate, to be appointed by the Senate Committee on~~
31 ~~Privileges and Elections; and four members from the Commonwealth at large, each of whom shall have previously~~
32 ~~demonstrated small business experience or expertise, to be appointed by the Governor.~~

33 ~~B. All appointments to the Commission shall be for terms of four years. Vacancies occurring other than by expiration~~
34 ~~of term shall be filled for the unexpired term. Whenever any legislative member fails to retain his membership in the house~~
35 ~~from which he was appointed, he shall relinquish his membership on the Commission and the appointing authority who~~
36 ~~appointed such member shall make an appointment from his respective house to complete the term. Any member may be~~
37 ~~reappointed for successive terms.~~

38 ~~C. The members of the Commission shall elect a chairman and a vice chairman annually.~~

39 ~~D. Legislative members of the Commission shall receive such compensation as is set forth in § 14.1-18 and all~~
40 ~~members shall be reimbursed for their actual expenses incurred by them in the performance of their duties in the work of the~~
41 ~~Commission.~~

42 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through D in proposed § 30-182
43 (existing § 9-336) supra.

44 ~~§ 9-338 30-183.~~ Powers and duties of the Commission.

45 The Commission shall have the power and duty to:

- 46 1. Evaluate the impact of existing statutes and proposed legislation on small businesses.
47 2. Assess the Commonwealth's small business assistance programs and examine ways to enhance their
48 effectiveness.
49 3. Provide small business owners and advocates with a forum to address their concerns.
50 4. Report annually its findings and recommendations to the Governor and the General Assembly.

51 **DRAFTING NOTE:** Technical corrections only.

1 ~~§ 9-330. Staff; cooperation from other state agencies.~~

2 ~~The Division of Legislative Services shall serve as staff to the Commission. All agencies of the Commonwealth shall~~
3 ~~assist the Commission upon request.~~

4 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 30-182 (existing § 9-336)
5 supra.

6 CHAPTER 23.

7 VIRGINIA CHESAPEAKE BAY PARTNERSHIP COUNCIL.

8 ~~§ 9-334 30-184. Virginia Chesapeake Bay Partnership Council—established; purpose; membership; terms;~~
9 ~~compensation; staff; cooperation of certain agencies.~~

10 A. The Virginia Chesapeake Bay Partnership Council, referred to in this chapter as (the "Council"), is hereby
11 established as a permanent in the legislative agency of the Commonwealth branch of state government. The Council's
12 purpose is of the Council shall be to advise the Governor, the Secretary of Natural Resources, and the General Assembly
13 regarding the coordination of Virginia's efforts in the regional Bay program, strategic planning for Bay restoration and
14 implementation of Virginia's commitments.

15 In carrying out its duties, the Council shall assist in the coordination of timely and efficient implementation of Bay
16 programs and commitments; review and help disseminate to the public information regarding the restoration progress; consult
17 with Virginia's representatives to the interstate Chesapeake Bay Program; and help facilitate strategic partnerships with
18 businesses, local governments, resource users, environmental and conservation organizations and citizens. The Council
19 shall also nominate persons and organizations to receive the "Friend of the Bay Award" (§ 2.1-51.8:3). The Council shall have
20 no regulatory authority to carry out its duties.

21 B. The Council shall consist of nineteen members as follows: four citizen members appointed by the Speaker of the
22 House of Delegates; four citizen members appointed by the Senate Committee on Privileges and Elections; four citizen
23 members appointed by the Governor; and the chairmen of the House Chesapeake and its Tributaries Committee, the House
24 Conservation and Natural Resources Committee, the Senate Agriculture, Conservation and Natural Resources Committee
25 and the Chairman of the Chesapeake Bay Commission Virginia delegation. The chairmen of the three standing committees of
26 the legislature may select a member of their respective committees to serve in their place. The Chairman of the Chesapeake
27 Bay Commission Virginia delegation may select a member from among the legislative members of the delegation to serve in
28 his place. Nonvoting ex officio members shall include a Virginia representative of the three standing advisory committees of
29 the interstate Chesapeake Bay Program. Citizen members shall include representatives of the scientific and technical
30 community, locally elected government officials, representatives of environmental organizations specifically working on
31 Chesapeake Bay matters, representatives of educational institutions and other interest groups.

32 C. Citizen members shall serve for terms of four years. Legislative members' terms of service shall coincide with
33 their term as chairman of their respective committees. Any vacancies shall be filled by the Governor, the Speaker of the
34 House, and the Senate Committee on Privileges and Elections, as appropriate. Citizen members shall receive no
35 compensation for their service but shall receive reimbursement for actual expenses. The Council shall meet at the call of the
36 chairman or at least three times per year.

37 D. The Council shall elect a chairman from among its legislative members.

38 E. Staffing for the Council shall be provided by the Division of Legislative Services.

39 F. All agencies of the Commonwealth with responsibility for Chesapeake Bay-related programs shall assist with the
40 Council in its work and deliberations.

41 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
42 A is § 9-334, subsections B through E are § 9-335. Language shown as stricken has been moved to proposed § 30-185,
43 Powers and duties of Council, infra.

44 § 30-185. Duties of the Council.

45 In carrying out its duties, the Council shall assist in the coordination of timely and efficient implementation of Bay
46 programs and commitments; review and help disseminate to the public information regarding the restoration progress; consult
47 with Virginia's representatives to the interstate Chesapeake Bay Program; and help facilitate strategic partnerships with
48 businesses, local governments, resource users, environmental and conservation organizations and citizens. The Council
49 shall also nominate persons and organizations to receive the "Friend of the Bay Award" in accordance with § 2.2-217. The
50 Council shall have no regulatory authority to carry out its duties.

51 **DRAFTING NOTE:** Technical corrections. This proposed section is derived from the second paragraph of existing § 9-334.

52 ~~§ 9-335. Membership; terms; compensation.~~

53 ~~The Council shall consist of nineteen members as follows: four citizen members appointed by the Speaker of the~~
54 ~~House of Delegates; four citizen members appointed by the Senate Committee on Privileges and Elections; four citizen~~

2 members appointed by the Governor; and the chairmen of the House Chesapeake and its Tributaries Committee, the House
3 Conservation and Natural Resources Committee, the Senate Agriculture, Conservation and Natural Resources Committee
4 and the Chairman of the Chesapeake Bay Commission Virginia delegation. The chairmen of the three standing committees of
5 the legislature may select a member of their respective committees to serve in their place. The Chairman of the Chesapeake
6 Bay Commission Virginia delegation may select a member from among the legislative members of the delegation to serve in
7 his place. Nonvoting ex officio members shall include a Virginia representative of the three standing advisory committees of
8 the interstate Chesapeake Bay Program. Citizen members shall include representatives of the scientific and technical
9 community, locally elected government officials, representatives of environmental organizations specifically working on
10 Chesapeake Bay matters, representatives of educational institutions and other interest groups. The Council shall elect a
11 chairman from among its legislative members.

12 Citizen members shall serve for terms of four years. Legislative members' terms of service shall coincide with their
13 term as chairman of their respective committees. Any vacancies shall be filled by the Governor, the Speaker of the House,
14 and the Senate Committee on Privileges and Elections, as appropriate. Citizen members shall receive no compensation for
15 their service but shall receive reimbursement for actual expenses. The Council shall meet at the call of the chairman or at
16 least three times per year.

17 Staffing for the Council shall be provided by the Division of Legislative Services. All agencies of the Commonwealth
18 with responsibility for Chesapeake Bay related programs shall assist with the Council in its work and deliberations.

19 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through E in proposed § 30-184
20 (existing § 9-334) supra.

21 CHAPTER 24.

22 STATE WATER COMMISSION.

23 § 30-186. State Water Commission; membership; terms; compensation; staff.

24 A. The State Water Commission (the "Commission") is established in the legislative branch of state government.
25 The Commission shall consist of fifteen members to be appointed as follows: the Chairmen of the House Committee on
Conservation and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources; seven
additional members of the House of Delegates at large appointed by the Speaker; four additional members of the Senate at
large appointed by the Committee on Privileges and Elections; and two citizen members to be appointed by the Governor.

28 B. Legislative members shall serve terms coincident with their terms of office. Gubernatorial appointees shall serve
29 for terms of four years and may succeed themselves, but vacancies during their terms shall be filled only for the unexpired
30 portion of the term.

31 C. The members of the Commission shall elect a chairman and a vice-chairman.

32 D. Commission members shall be compensated as specified in § 30-19.12, and shall be reimbursed for all
33 reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

34 E. The Division of Legislative Services shall serve as staff to the Commission.

35 F. All agencies of the Commonwealth shall assist the Commission upon request.

36 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
37 A through D are § 9-145.9 and subsections E and F are § 9-145.10.

38 ~~§ 9-145.9 30-187. Powers and duties of the Commission established; functions.~~

39 ~~The State Water Commission, referred to in this chapter as "Commission," is established as a permanent agency of~~
40 ~~the Commonwealth. It shall perform the following functions have the power and duty to:~~

41 1. Study all aspects of water supply and allocation problems in the Commonwealth, whether these problems are of a
42 quantitative or qualitative nature;

43 2. Coordinate the legislative recommendations of all other state entities having responsibilities with respect to water
44 supply and allocation issues; and

45 3. Report annually its findings and recommendations to the Governor and the General Assembly.

46 **DRAFTING NOTE:** Technical corrections only.

47 ~~§ 9-145.9. Membership; compensation; chairman and vice chairman.~~

48 ~~A. The Commission shall consist of fifteen members as follows: the Chairmen of the House Committee on~~
49 ~~Conservation and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources; seven~~
50 ~~additional members of the House of Delegates at large appointed by the Speaker; four additional members of the Senate at~~
51 ~~large appointed by the Committee on Privileges and Elections; and two members from the Commonwealth at large appointed~~
52 ~~by the Governor. The legislative members' terms of office shall coincide with their service in the General Assembly.~~

1 ~~Gubernatorial appointees shall serve for terms of four years and may succeed themselves, but vacancies during their term~~
2 ~~shall be filled only for the unexpired portion of the term.~~

3 ~~B. Commission members shall be compensated as specified in § 14.1-18, and shall be reimbursed for expenses~~
4 ~~incurred in the performance of their duties.~~

5 ~~C. The members of the Commission shall elect a chairman and a vice chairman.~~

6 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections B through D of proposed § 30-186
7 supra.

8 ~~§ 9-145.10. Staff.~~

9 ~~The Division of Legislative Services shall serve as staff to the Commission. All agencies of the Commonwealth shall~~
10 ~~assist the Commission upon request.~~

11 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections E and F of proposed § 30-186 supra.

12 CHAPTER 25.

13 VIRGINIA COAL AND ENERGY COMMISSION.

14 § 30-188. Virginia Coal and Energy Commission; membership; terms; compensation; staff.

15 A. The Virginia Coal and Energy Commission (the "Commission") is established in the legislative branch of state
16 government. The Commission shall consist of twenty members to be appointed as follows: five members of the Senate to be
17 appointed by the Committee on Privileges and Elections; eight members of the House of Delegates to be appointed by the
18 Speaker of the House of Delegates; and seven citizen members to be appointed by the Governor. The citizen members shall
19 include representatives of industry, government and groups or organizations identified with production and conservation of
20 coal, natural gas, and energy.

21 B. Legislative members shall serve terms coincident with their terms of office. Members appointed by the Governor
22 shall serve for terms of four years. Vacancies occurring other than by expiration of term shall be filled for the unexpired term.
23 Any member may be reappointed for successive terms.

24 C. The members of the Commission shall elect their own chairman annually.

25 D. Legislative members of the Commission shall receive such compensation as is set forth in § 30-19.12 and
26 members shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided
27 in § 2.2-2825.

28 E. The Division of Legislative Services shall serve the Commission as its secretariat and central administrative office
29 and shall furnish the Commission with such services as the Commission deems necessary.

30 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsections
31 A through D are § 9-145.2 and subsection E is § 9-145.3.

32 ~~§ 9-145.1~~ 30-189. Commission established; agency assistance; powers Powers and duties of Commission.

33 ~~The Virginia Coal and Energy Commission is hereby established as a permanent agency of the Commonwealth and~~
34 ~~is hereafter referred to in this chapter as "Commission."~~

35 A. The Commission shall generally study all aspects of coal as an energy resource and endeavor to stimulate,
36 encourage, promote, and assist in the development of renewable and alternative energy resources other than petroleum. The
37 Commission shall have no authority to promulgate rules and adopt regulations. All agencies of the Commonwealth shall
38 assist the Commission in its work. In addition to the aforementioned general powers, the Commission shall also perform the
39 following functions:

40 ~~A-1.~~ Act in an advisory capacity to the Governor and executive branch agencies upon energy related matters;

41 ~~B-2.~~ Investigate and consider such questions and problems relating to the field of coal and energy utilization and
42 alternative energy sources as may be submitted;

43 ~~C-3.~~ Make recommendations to the Governor and General Assembly on its own initiative;

44 ~~D-4.~~ Consult with applicable state agencies on all matters regarding energy conservation, including the promotion
45 and implementation of initiatives for the public-at-large to conserve energy;

46 ~~E-5.~~ Endeavor to encourage research designed to further new and more extensive use of the coal as well as
47 alternative and renewable energy resources of the Commonwealth;

48 ~~F-6.~~ Effectively disseminate any such proposals to groups and organizations, both state and local, so as to stimulate
49 local governing bodies and private business initiative in the field of energy related matters; and

50 ~~G-7.~~ Coordinate its efforts with those of the Virginia Solar Energy Center established pursuant to § 45.1-391 and th
51 Virginia Center for Coal and Energy Research established pursuant to Article 2.01 (§ 23-135.7:1 et seq.) of Chapter 11
52 Title 23;

1 ~~H-8. Actively seek federal and other funds to be used to carry out its functions;~~

2 ~~I-9. Seek to establish alternative fuel capability within the Commonwealth.~~

3 ~~B. The Commission shall report its findings and recommendations to the Governor and the General Assembly on an~~
4 ~~annual basis.~~

5 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
6 A is § 9-145.1 and subsection B is § 9-145.4.

7 ~~§ 9-145.2. Membership; terms; vacancies; chairman; compensation.~~

8 ~~A. The Commission shall consist of twenty members, of whom five shall be appointed by the Committee on~~
9 ~~Privileges and Elections of the Senate from the membership of the Senate, eight shall be appointed by the Speaker of the~~
10 ~~House of Delegates from the membership thereof and seven shall be appointed from the Commonwealth at large by the~~
11 ~~Governor. The at-large appointees shall include representatives of industry, government and groups or organizations~~
12 ~~identified with production and conservation of coal, natural gas, and energy.~~

13 ~~B. The terms of office of the legislative members shall be coincident with their service in the house from which~~
14 ~~appointed; the appointees of the Governor shall serve for terms of four years and their successors shall be appointed for like~~
15 ~~terms, but vacancies occurring other than by expiration of term shall be filled for the unexpired term. Any member may be~~
16 ~~reappointed for successive terms.~~

17 ~~C. The members of the Commission shall elect its own chairman annually.~~

18 ~~D. Legislative members of the Commission shall receive such compensation as is set forth in § 14.1-18 and all~~
19 ~~members shall be reimbursed for their actual expenses incurred by them in the performance of their duties in the work of the~~
20 ~~Commission.~~

21 **DRAFTING NOTE:** Technical corrections. This section now appears as subsections A through D in proposed § 30-188,
22 supra.

23 ~~§ 9-145.3. Secretarial and administrative office; support services.~~

24 ~~The Division of Legislative Services shall serve the Commission as its secretariat and central administrative office~~
25 ~~and shall furnish the Commission with such services as the Commission shall deem necessary.~~

26 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection E in proposed § 30-188, supra.

27 ~~§ 9-145.4. Annual report.~~

28 ~~The Commission shall report its findings and recommendations to the Governor and the General Assembly on an~~
29 ~~annual basis.~~

30 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection B in proposed § 30-189 (existing § 9-
31 145.1) supra.

32 CHAPTER 26.

33 COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS.

34 ~~§ 9-201.4 30-190. Commission created; powers and duties; appointment and on Early Childhood and Child Day~~
35 ~~Care Programs; purpose; membership; terms of members; vacancies, etc; compensation; staff.~~

36 ~~A. There is hereby created the~~ The Commission on Early Childhood and Child Day Care Programs, hereinafter
37 ~~referred to as (the "Commission") is established in the legislative branch of state government. The purpose of the~~
38 ~~Commission shall be, through its powers and performance of duties set forth in this chapter, to study and provide~~
39 ~~recommendations addressing the need for quality developmental early childhood and child day care programs and services.~~
40 ~~In so doing, it shall encourage the development of uniform policies and services to ensure the availability of quality, affordable~~
41 ~~and accessible early childhood and child day care programs and provide a forum for continuing the review and study of such~~
42 ~~programs and services. In addition to its own proposals, the Commission shall coordinate the proposals and~~
43 ~~recommendations of all commissions and agencies as to legislation affecting such programs and services.~~

44 ~~B. The Commission shall be composed consist of nineteen members. Appointments shall be made to be appointed~~
45 ~~as follows: seven members from of the House of Delegates to be appointed by the Speaker of the House; four members from~~
46 ~~of the Senate to be appointed by the Senate Committee on Privileges and Elections; and three citizens to be appointed by the~~
47 ~~Governor, one of whom shall be a representative of the business community, and one of whom shall be a representative of~~
48 ~~local government. In addition, the Commissioner of Social Services, the Superintendent of Public Instruction, the Director of~~
49 ~~the State Council of Higher Education, the Chancellor of the Virginia Community College System, and the Chairman of the~~
50 ~~Child Day Care Council shall serve as ex officio members with full voting privileges. The members of the Commission shall~~
51 ~~elect a chairman and a vice chairman annually.~~

1 All each-members of the Commission shall serve until the expiration of their terms of office or until their successors
2 shall-qualify. However, the appointments of citizen members shall be for a term of five years. Subsequent appointments shall
3 be made for similar terms, and vacancies shall be filled for the unexpired terms by the persons authorized to make the
4 original appointments.

5 C. The members of the Commission shall elect a chairman and a vice-chairman annually.

6 D. Commission members shall be compensated as specified in § 14-118 30-19.12, and shall be reimbursed for
7 expenses incurred in the performance of their duties all reasonable and necessary expenses incurred in the discharge of their
8 duties as provided in § 2.2-2825.

9 ~~C. The Commission shall have the power and duty to:~~

10 ~~1. Determine the number of at risk four-year olds in the Commonwealth and the number of such children who are not~~
11 ~~enrolled in developmental early childhood or child day care programs;~~

12 ~~2. Determine the number of school age children in the Commonwealth and the extent of the need for public school~~
13 ~~day care programs;~~

14 ~~3. Develop a mechanism for the phased integration of and funding for quality developmental early childhood and~~
15 ~~child day care programs;~~

16 ~~4. Assess the need for additional child day care services, and the types of program options desired by families,~~
17 ~~including the need for employer sponsored child day care services for state employees;~~

18 ~~5. Recommend ways to promote significant parental, state and local, public private sector, and corporate~~
19 ~~involvement in and support of early childhood and child day care programs;~~

20 ~~6. Monitor and evaluate the implementation of programs to provide appropriate education and training for early~~
21 ~~childhood professionals and child day care providers;~~

22 ~~7. Recommend eligibility criteria for participation in and appropriate ways by which early childhood and day care~~
23 ~~programs may be provided which minimize the potentiality for competition between the Commonwealth and private day care~~
24 ~~providers;~~

25 ~~8. Review the status of agency efforts to promote the coordination and dissemination of child care information and~~
26 ~~day care services;~~

27 ~~9. Develop incentives to promote the recruitment and retention of qualified early childhood professionals and child~~
28 ~~day care providers;~~

29 ~~10. Review the provisions of and monitor the implementation of the Family Support Act of 1988, the Child Care Act,~~
30 ~~P.L. 101 508, the Head Start Authorization Increase, P.L. 101 120, and such other federal legislation and regulations~~
31 ~~concerning early childhood and child day care programs as may be enacted, and recommend such amendments to relevant~~
32 ~~state statutes as may be necessary to ensure consistency between state and federal law and regulations;~~

33 ~~11. Analyze the several policy and legal issues related to early childhood and day care programs, e.g.,~~
34 ~~establishment of entitlement programs, effect on the compulsory school attendance laws, modifications in licensing~~
35 ~~requirements, and program content, and determine the need for the development of appropriate policy or changes in current~~
36 ~~state policy and laws pertaining to such issues;~~

37 ~~12. Determine the appropriate mechanism for and level of funding necessary to assist low income families and the~~
38 ~~working poor in obtaining quality, affordable child day care services, including the impact of any state, local, or federal fiscal~~
39 ~~exigency on early childhood and child day care programs and services;~~

40 ~~13. Coordinate the revision and implementation of child day care licensing laws and review such related matters as~~
41 ~~may be referred to it;~~

42 ~~14. Monitor and coordinate health and early intervention programs for young children and such children with special~~
43 ~~needs to ensure the delivery of appropriate services; and~~

44 ~~15. Recommend any statutory, regulatory, or policy changes as it deems necessary to ensure the viability of quality,~~
45 ~~affordable and accessible early childhood and child day care programs.~~

46 ~~D E. The Division of Legislative Services shall provide such staff support, both administrative and professional, as to~~
47 ~~the Commission may require.~~

48 F. The Commission may request and shall receive from every department, division, board, bureau, commission,
49 authority or other agency created by this Commonwealth, or to which the Commonwealth is party, or from any political
50 subdivision of the Commonwealth, cooperation and assistance as it may deem necessary in the performance of its duties.

51 ~~E. The Commission shall report its findings and recommendations regarding early childhood and child day care~~
52 ~~programs and services to the 1992 Session of the General Assembly, and thereafter, report annually on the status and needs~~
53 ~~concerning such programs and services in the Commonwealth to the Governor and the General Assembly.~~

54 **DRAFTING NOTE:** Existing subsections C and E, shown here as stricken, now appear as subsections A and B in proposed
55 § 30-191, Powers and Duties of the Commission, infra. In subsection B, the deletion of the language "with full voting

privileges" as it relates to the ex officio members does not eliminate their right to vote on this Council. The term "ex officio" means by virtue of the office and does not address voting rights. The Code Commission has adopted the position in this title revision, that voting rights accompany all members appointed ex officio unless the statute states that such members are not to vote.

§ 30-191. Powers and duties of the Commission; annual report.

A. The Commission shall have the power and duty to:

1. Determine the number of at-risk four-year-olds in the Commonwealth and the number of such children who are not enrolled in developmental early childhood or child day care programs;

2. Determine the number of school age children in the Commonwealth and the extent of the need for public school day care programs;

3. Develop a mechanism for the phased integration of and funding for quality developmental early childhood and child day care programs;

4. Assess the need for additional child day care services, and the types of program options desired by families, including the need for employer-sponsored child day care services for state employees;

5. Recommend ways to promote significant parental, state and local, public-private sector, and corporate involvement in and support of early childhood and child day care programs;

6. Monitor and evaluate the implementation of programs to provide appropriate education and training for early childhood professionals and child day care providers;

7. Recommend eligibility criteria for participation in and appropriate ways by which early childhood and day care programs may be provided which that minimize the potentiality for competition between the Commonwealth and private day care providers;

8. Review the status of agency efforts to promote the coordination and dissemination of child care information and day care services;

9. Develop incentives to promote the recruitment and retention of qualified early childhood professionals and child day care providers;

10. Review the provisions of and monitor the implementation of the Family Support Act of 1988, the Child Care Act, P.L. 101-508, the Head Start Authorization Increase, P.L. 101-120, and such other federal legislation and regulations concerning early childhood and child day care programs as may be enacted, and recommend such amendments to relevant state statutes as may be necessary to ensure consistency between state and federal law and regulations;

11. Analyze the several policy and legal issues related to early childhood and day care programs, e.g., establishment of entitlement programs, effect on the compulsory school attendance laws, modifications in licensing requirements, and program content, and determine the need for the development of appropriate policy or changes in current state policy and laws pertaining to such issues;

12. Determine the appropriate mechanism for and level of funding necessary to assist low-income families and the working poor in obtaining quality, affordable child day care services, including the impact of any state, local, or federal fiscal exigency on early childhood and child day care programs and services;

13. Coordinate the revision and implementation of child day care licensing laws and review such related matters as may be referred to it;

14. Monitor and coordinate health and early intervention programs for young children and such children with special needs to ensure the delivery of appropriate services; and

15. Recommend any statutory, regulatory, or policy changes as it deems necessary to ensure the viability of quality, affordable and accessible early childhood and child day care programs.

B. The Commission shall report its findings and recommendations regarding early childhood and child day care programs and services to the Governor and the General Assembly on an annual basis.

DRAFTING NOTE: Technical corrections. This proposed section is comprised of subsections C and E of existing § 9-291.1.

CHAPTER 27.

DR. MARTIN LUTHER KING, JR. MEMORIAL COMMISSION.

§ 30-192. Dr. Martin Luther King, Jr. Memorial Commission; membership; duties; staff; annual report.

A. There is hereby established within the legislative branch, the Dr. Martin Luther King, Jr. Memorial Commission, hereinafter referred to as the "Commission." The Commission shall be composed of fifteen members as follows: five members of the House of Delegates to be appointed by the Speaker of the House; four members of the Senate to be appointed by the Senate Committee on Privileges and Elections; four citizens, two of whom shall be appointed by the Speaker of the House and two of whom shall be appointed by the Senate Committee on Privileges and Elections; the Project Director of the Dr.

1 Martin Luther King, Jr. Community Learning Week; and the Executive Director of the National Association for the
2 Advancement of Colored People Virginia State Conference. Members of the Commission shall be appointed for the life of the
3 Commission. Vacancies shall be filled in the same manner as the original appointments. Legislative members of the
4 Commission shall receive such compensation as provided in § 30-19.12, and all members shall be reimbursed for the actual
5 expenses incurred by them in the performance of their duties.

6 The Commission shall elect a chairman and a vice-chairman from among its members.

7 B. The Commission shall meet not less than four times annually. The Commission shall perform the following duties:

8 1. Identify, plan, develop, and implement appropriate programs and events that further the philosophy and memory
9 of Dr. King.

10 2. Monitor the educational goals, programs, and objectives of public and private schools to ensure the recognition
11 and inclusion of the achievements and contributions of ethnic and minority groups.

12 3. Inventory, and review, biennially, activities and events sponsored by localities in the Commonwealth and those
13 instituted or offered by public and private institutions of higher education designed to honor Dr. King's memory and encourage
14 the participation of persons representative of the demographic composition of the Commonwealth, to the end that Dr. King's
15 philosophy of social justice and racial equality is reflected in public policies and affairs, and an appreciation of diverse
16 cultures is promoted among the citizenry.

17 4. Collaborate with the Dr. Martin Luther King, Jr. Federal Holiday Commission and other established state and local
18 entities and community organizations in activities and events that commemorate the birth, death, and legacy of Dr. Martin
19 Luther King, Jr.

20 5. Establish a mechanism in honor of Dr. Martin Luther King, Jr., by which (i) the records and memorabilia
21 documenting his relationship with and impact on the Commonwealth may be acquired and preserved; (ii) information
22 concerning his life and philosophy may be collected and disseminated for educational and cultural purposes; and (iii)
23 scholarly inquiry, writing, graduate study, and policy analysis may be conducted.

24 6. Encourage and engage in the dissemination of appropriate information and collaborative activities which
25 emphasize the noncommercialization of the commemoration of Dr. King's birth, present his life and achievements in historical
26 context, articulate the relationship between his philosophy, contributions, and current public policies, and demonstrate his
27 philosophy consistently through significant participation of persons of diverse racial, ethnic, and cultural backgrounds in public
28 and private affairs and enterprises.

29 7. Perform such other functions and activities as may be necessary to facilitate or implement the Commission's
30 objectives.

31 C. The Division of Legislative Services shall serve as staff to the Commission. All agencies of the Commonwealth
32 shall assist the Commission upon request.

33 D. The Commission shall report annually to the Governor and the General Assembly its activities, findings, and
34 recommendations for appropriate statewide commemorative activities, events, and public policies which further the
35 philosophy of Dr. King.

36 **DRAFTING NOTE:** Technical corrections only. This chapter, consisting of existing § 9-145.45 only, was relocated here (Title
37 30) from Chapter 22.10 of Title 9 because it is a legislative commission.

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

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

6 With the exception of the Secretary of Commerce and Trade or his designee, the Secretary of Finance or his
7 designee and the Commissioner of Agriculture and Consumer Affairs or his designee, all members of the Commission shall
8 reside in the Southside and Southwest regions of the Commonwealth and shall be subject to confirmation by the General
9 Assembly. To the extent feasible, appointments representing the Southside and Southwest regions shall be proportional to
10 the tobacco quota production of each region.

11 Except as otherwise provided herein, all appointments shall be for terms of four years each. Vacancies shall be filled
12 for the unexpired terms. No member shall be eligible to serve more than two successive four-year terms; however, after
13 expiration of a term of three years or less, or after the expiration of the remainder of a term to which he was appointed to fill a
14 vacancy, two additional terms may be served by such member if appointed thereto. Whenever any legislative member fails to
15 retain his membership in the house from which he was appointed, he shall relinquish his membership on the Commission and
16 the appointing authority who appointed such member shall make an appointment from his respective house to complete the
17 term. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The initial
18 appointments of the active flue-cured tobacco producers, the active burley tobacco producers, and the citizen members shall
19 be as follows: one active flue-cured tobacco producer, one active burley tobacco producer and four citizen members shall be
20 appointed for terms of two years; one active flue-cured tobacco producer, one active burley tobacco producer and four citizen
21 members shall be appointed for terms of three years; and one active flue-cured tobacco producer, one active burley tobacco
22 producer and three citizen members shall be appointed for terms of four years. Thereafter all appointments shall be for terms
23 of four years.

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

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

31 D. Members of the Board and employees of the Commission shall be subject to the standards of conduct set forth in
32 the State and Local Government Conflict of Interests Act (~~§ 2-1-630~~ 2-2-3100 et seq.) and may be removed from office for
33 misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

34 E. Members of the Board and employees of the Commission shall be subject to the provisions ~~set forth in~~ of the
35 Virginia Freedom of Information Act (~~§ 2-1-340~~ 2-2-3700 et seq.).

36 **DRAFTING NOTE:** Technical corrections only.

37 ~~§ 0-383~~ 3-1-1109. Powers and duties of the Commission.

38 A. The Commission ~~is hereby granted~~, shall have, and may exercise all powers necessary or appropriate to carry out
39 and effectuate its corporate purposes, including, without limitation, the following the power and duty to:

- 40 1. ~~To adopt~~ Adopt, use, and alter at will an official seal;
- 41 2. ~~To make~~ Make bylaws for the management and regulation of its affairs;
- 42 3. ~~To maintain~~ Maintain an office at such place or places within this Commonwealth as it may designate;
- 43 4. ~~To accept~~ Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or
44 bequeathed to the Commission, absolutely or in trust, for the purposes for which the Commission is created;
- 45 5. ~~To determine~~ Determine how moneys in the Fund are to be distributed and to authorize distribution of moneys in
46 the Fund for the purposes set forth in this chapter;
- 47 6. ~~To make~~ Make and execute contracts and all other instruments and agreements necessary or convenient for the
48 exercise of its powers and functions;
- 49 7. ~~To invest~~ Invest its funds as provided in this chapter or permitted by applicable law; and
- 50 8. ~~To do~~ Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied,
51 including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from
52 the Fund.

53 ~~B. The Commission shall cause moneys in the Fund to be distributed as follows:~~

- 54 1. ~~To cause payment to be made to tobacco farmers in the Commonwealth for the decline or elimination of tobacco
55 quota based on averaging the basic burley and flue-cured quota as allocated by the USDA for the crop years 1995 through~~

2 ~~1998. To the extent such tobacco farmers are not otherwise compensated by a national tobacco community trust fund and to~~
3 ~~the extent moneys are available in the Fund, the Commission shall cause compensation to be paid to such tobacco farmers in~~
4 ~~an amount equal to the total lost asset value in quota incurred annually by such tobacco farmers. To the extent an active~~
5 ~~tobacco producer is not otherwise compensated by a national tobacco community trust fund and to the extent moneys are~~
6 ~~available in the Fund, the Commission shall also cause compensation to be paid to an active tobacco producer for the~~
7 ~~economic loss resulting from any annual quota reduction. The total asset loss value in quota and economic losses for active~~
8 ~~tobacco producers in Virginia is estimated to be \$1.2 billion. The Commission shall establish criteria for determining economic~~
9 ~~loss resulting from any annual quota reduction. When establishing such criteria, the Commission shall consider any similar~~
10 ~~criteria established pursuant to creation of a national tobacco community trust fund; and~~

11 ~~2. To promote economic growth and development in tobacco dependent communities in an equitable manner~~
12 ~~throughout the southside and southwest regions of the Commonwealth, in order to assist such communities in reducing their~~
13 ~~dependency on tobacco and tobacco-related business.~~

14 ~~DB. The Commission shall undertake studies and gather information and data in order to determine (i) the economic~~
15 ~~consequences of the reduction in or elimination of quota for tobacco growers, (ii) the potential for alternative cash crops, and~~
16 ~~(iii) any other matters the Commission believes will affect tobacco growers in the Commonwealth.~~

17 C. The Commission shall submit a report annually to the Governor and the General Assembly.

18 **DRAFTING NOTE:** Technical corrections. Existing subsection B now appears as proposed § 30-1112, Distribution of Fund,
19 infra. Proposed subsection C is § 9-388.

20 ~~§-9-384 3.1-1110.~~ Appointment of director; counsel to the Commission.

21 A. The Governor shall appoint an executive director subject to confirmation by the General Assembly. The
22 compensation of the executive director shall be determined by the Commission, subject to approval by the Governor. The
23 executive director shall ~~be serve as~~ the secretary to the Commission and shall administer the affairs and business of the
24 Commission in accordance with the provisions of this chapter and subject to the policies, control and direction of the
25 Commission. The Commission may employ technical experts and ~~such~~ other officers, agents and employees, permanent and
26 temporary, as it ~~may require~~ requires, and shall determine their qualifications, duties and compensation. The Commission
may delegate to one or more of its agents or employees ~~such the~~ administrative duties ~~as it may deem~~ deems proper. The
actual expenses incurred in the performance of such duties shall be paid from the Fund.

B. The Office of the Attorney General shall provide counsel to the Commission.

29 **DRAFTING NOTE:** Technical corrections only.

30 ~~§-9-385 3.1-1111.~~ Tobacco Indemnification and Community Revitalization Fund; tax credits for technology industries
31 in tobacco-dependent localities.

32 A. Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be deposited into the
33 state treasury subject to the special nonreverting funds established by subsection B of this section and by § 32.1-360 and
34 shall be included in general fund revenue calculations for purposes of subsection C of § 58.1-3524 and subsection B of §
35 58.1-3536.

36 B. There is ~~hereby~~ created in the state treasury a special nonreverting fund to be known as the Tobacco
37 Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the Comptroller. Fifty
38 percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the
39 state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it.
40 Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general
41 fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter;
42 however, starting with the fiscal year beginning July 1, 2000, through December 31, 2009, the Commission may deposit
43 moneys from the Fund into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15,
44 for purposes of funding the tax credits provided in §§ 58.1-439.13 and 58.1-439.14 and the grants provided in § 58.1-439.17.
45 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller
46 upon written authorization signed by the chairman of the Commission or his designee. The Fund shall also consist of other
47 moneys received by the Commission, from any source, for the purpose of implementing the provisions of this chapter.

48 **DRAFTING NOTE:** Technical corrections only.

49 § 3.1-1112. Distribution of Fund.

50 The Fund shall be distributed by the Commission for the following purposes:

51 1. The compensation of Virginia tobacco farmers for the decline or elimination of the tobacco quota based on
52 averaging the basic burley and flue-cured quota as allocated by the USDA for the crop years 1995 through 1998.

53 To the extent tobacco farmers in Virginia are not otherwise compensated by a national tobacco community trust fund
54 and to the extent moneys are available in the Fund, the Fund shall be used to compensate tobacco farmers in an amount
55 equal to the total lost asset value in quota incurred annually by such tobacco farmers.

1 To the extent active tobacco producers in Virginia are not otherwise compensated by a national tobacco communi
2 trust fund and to the extent moneys are available in the Fund, the Fund shall be used to compensate active tobacc
3 producers for the economic loss resulting from any annual quota reduction.

4 For the purposes of this section, the total asset loss value in quota and economic losses for active tobacco
5 producers in Virginia shall be estimated to be \$1.2 billion.

6 The Commission shall establish criteria for determining economic loss resulting from any annual quota reduction,
7 including any similar criteria established pursuant to the creation of a national tobacco community trust fund; and

8 2. The stimulation of economic growth and development in tobacco-dependent communities in an equitable manner
9 throughout the southside and southwest regions of the Commonwealth, to assist such communities in reducing their
10 dependency on tobacco and tobacco-related business.

11 **DRAFTING NOTE:** Technical corrections. This proposed section is subsection B from existing § 9-383.

12 ~~§ 9-386 3.1-1113. Audit Form of accounts; annual audit.~~

13 A. The accounts and records of the Commission showing the receipt and disbursement of funds from whatever
14 source derived shall be in such form as the Auditor of Public Accounts prescribes.

15 B. The accounts of the Commission shall be audited annually by the Auditor of Public Accounts, or his legally
16 authorized representatives. Copies of the annual audit shall be distributed to the Governor and to the Chairmen of the House
17 Committee on Appropriations and the Senate Committee on Finance.

18 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: subsection
19 A is § 9-387 and subsection B is § 9-386.

20 ~~§ 9-387. Forms of accounts and records.~~

21 ~~The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source~~
22 ~~derived shall be in such form as the Auditor of Public Accounts prescribes.~~

23 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection A in proposed § 3.1-1113 (existing § 3-
24 386) supra.

25 ~~§ 9-388. Reports to the Governor and General Assembly.~~

26 ~~The Commission shall submit a report annually to the Governor and the General Assembly.~~

27 **DRAFTING NOTE:** Technical corrections. This section now appears as subsection C in proposed § 3.1-1109 (existing § 9-
28 383) supra.

29 ~~§ 9-389 3.1-1114. Public Declaration of public purpose; exemption from taxation.~~

30 A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the
31 Commonwealth and for the promotion of their welfare, convenience and prosperity.

32 B. The Commission will shall be performing an essential governmental function in the exercise of the powers
33 conferred upon it by this chapter, and the property of the Commission and its income and operations shall be exempt from
34 taxation or assessments upon any property acquired or used by the Commission under the provisions of this chapter.

35 **DRAFTING NOTE:** Technical corrections only.

36 Title 6.1

37 ~~§ 2-1-23 6.1-5.4. Saturday closing of banks.~~

38 It shall be lawful for any bank as defined in § 6.1-4, including national banking associations and federal reserve
39 banks, to permit any one or more or all of its offices to remain closed on any one or more or all Saturdays, as the bank, by
40 resolution of its board of directors, may from time to time determine. Any Saturday on which an office of a bank shall remain
41 remains closed, as herein permitted, shall as to such office, constitute a legal holiday as to such office, and any act
42 authorized, required or permitted to be performed at, by or with respect to any such office on a Saturday on which the office is
43 so closed, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result
44 from such delay.

45 **DRAFTING NOTE:** Technical corrections. This section has been relocated here from Title 2.1 for more appropriate
46 placement.

1 Title 17.1.

2 CHAPTER 9.

3 JUDICIAL REVIEW AND INQUIRY COMMISSION.

4 § ~~2.1-37.4~~ 17.1-900. Definitions and application of chapter.

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

6 "Commission" means the Judicial Inquiry and Review Commission provided for in Article VI, Section 10 of the
7 Constitution of Virginia; ~~"subordinate~~

8 ~~courts of record" means all courts of record except the Supreme Court, but including the Court of Appeals, and~~
9 ~~"judge".~~

10 "Judge" means a justice of the Supreme Court, judge of the Court of Appeals, judge of a circuit or district court,
11 member of the State Corporation Commission, or a member of the Virginia Workers' Compensation Commission, all of whom
12 shall be subject to investigations and proceedings under the provisions of this chapter.

13 **DRAFTING NOTE:** Technical corrections. The definition of "subordinate courts of record" has been deleted as unnecessary.
14 That term is not used in this chapter.

15 § ~~2.1-37.3~~ 17.1-901. ~~(For effective date—See note)~~ Commission created; membership and terms of office.

16 There is ~~herely~~ created a Judicial Inquiry and Review Commission, composed of seven persons who shall be
17 citizens and residents of ~~this the~~ Commonwealth. The members of the Commission shall be chosen by the vote of a majority
18 of the members elected to each house of the General Assembly. The Commission, annually, shall elect one of its members to
19 be chairman of the Commission for the ensuing year.

20 The Commission shall consist of three judicial members, who shall be (i) one active judge of a circuit court, (ii) one
21 active judge of a general district court and (iii) one active judge of a juvenile and domestic relations district court; two lawyer
22 members, who shall be active members of the Virginia State Bar who are not judges and who have practiced law in ~~this the~~
23 Commonwealth for fifteen or more years immediately preceding their appointment; and two public members who shall not be
24 active or retired judges and shall never have been licensed lawyers.

25 ~~The~~ After the initial appointments, the term of office of each member shall be four years commencing on July 1,
26 ~~except that the initial terms commencing on July 1, 1979, shall be as follows: The term of one public member shall be four~~
27 ~~years; the term of the general district court judge member shall be four years; and the term of the juvenile and domestic~~
28 ~~relations district court judge member shall be three years.~~ No member of the Commission shall be eligible to serve more than
29 two consecutive terms.

30 Commission membership terminates whenever a member resigns or ceases to possess the qualifications that made
31 him eligible for appointment. During any vacancy which may exist while the General Assembly is not in session, the Governor
32 may appoint a successor to serve until thirty days after the commencement of the next session of the General Assembly.
33 Upon election of a successor by the General Assembly, the new member of the Commission shall serve for the remainder of
34 the term of office of his predecessor.

35 Any member of the Commission who is the subject of an investigation or hearing by it or is otherwise personally
36 involved therein shall be disqualified by the Commission from acting in such proceedings. In such a case the Governor shall
37 appoint a person possessing the original qualifications of such member as prescribed by this section to serve temporarily as a
38 substitute member of the Commission in such proceedings.

39 **DRAFTING NOTE:** Technical corrections. Language relating to the terms of initial appointees has been deleted as obsolete.

40 § ~~2.1-37.4~~ 17.1-902. Powers and duties of Commission generally.

41 The Commission is ~~herely~~ vested with the power, and it shall be its duty, to investigate charges arising out of the
42 present or any prior term of office which would be the basis for retirement, censure, or removal of a judge under Article VI,
43 Section 10 of the Constitution of Virginia and the provisions of this chapter even though the subject judge may have been
44 reelected to a new term of office.

45 The Commission, after such investigation as it deems necessary, may order and conduct hearings at such times and
46 places in the Commonwealth as it shall determine.

47 If the Commission finds the charges to be well-founded, and sufficient to constitute the basis for retirement, censure,
48 or removal of a judge, it may file a formal complaint before the Supreme Court.

49 The Commission shall have the authority to make rules, not in conflict with the provisions of this chapter or of
50 general law, to govern investigations and hearings conducted by it.

51 No act of the Commission shall be valid unless concurred with by a majority of its members.

52 **DRAFTING NOTE:** Technical corrections. This proposed section is comprised of the following existing sections: the first
53 three paragraphs are § 2.1-37.4, the fourth paragraph is § 2.1-37.5, and the last paragraph is § 2.1-37.6.

1 § 2.1-37.5. Power to make rules.
2 ~~The Commission shall have the authority to make rules, not in conflict with the provisions of this chapter or of~~
3 ~~general law, to govern investigations and hearings conducted by it.~~

4 **DRAFTING NOTE:** Technical corrections. This section now appears as the fourth paragraph in proposed § 17.1-902
5 (existing § 2.1-37.4).

6 ~~§ 2.1-37.6. Concurrence of majority in acts of Commission required.~~
7 ~~No act of the Commission shall be valid unless concurred in by a majority of its members.~~

8 **DRAFTING NOTE:** Technical corrections. This section now appears as the last paragraph in proposed § 17.1-902 (existing §
9 2.1-37.4).

10 ~~§ 2.1-37.7~~ 17.1-903. Officers and employees; experts and reporters; witnesses; legal counsel.
11 The Commission may (i) employ such officers, assistants, and other employees as it deems necessary for the
12 performance of ~~the its~~ duties and ~~exercise of the powers conferred upon it, may;~~ (ii) arrange for and compensate medical and
13 other experts and reporters, ~~may;~~ (iii) arrange for attendance of witnesses, including witnesses not subject to subpoena; and
14 ~~may~~ (iv) pay from funds available to it all expenses reasonably necessary for effectuating the purposes of Article VI, Section
15 10 of the Constitution of Virginia and the provisions of this chapter, whether or not specifically enumerated herein. The
16 Attorney General shall, if requested by the Commission, act as its counsel generally or in any particular investigation or
17 proceeding.

18 The Commission may employ counsel, notwithstanding the provisions of ~~§ 2.1-122, as amended~~ 2.2-510.

19 **DRAFTING NOTE:** Technical corrections only.

20 ~~§ 2.1-37.8~~ 17.1-904. Compensation and expenses.
21 ~~Each member~~ Members of the Commission shall be allowed ~~his all reasonable and necessary~~ expenses for travel,
22 board, and lodging incurred in the performance of ~~his their~~ duties. ~~The members shall receive compensation for their services~~
23 as provided in ~~§ 44.4-48~~ 30-19.12. These and all other necessary expenses of the Commission shall be paid by the
24 Commonwealth.

25 **DRAFTING NOTE:** Technical corrections only.

26 ~~§ 2.1-37.8:1~~ 17.1-905. Annual report.
27 On or before December 1 of each year, the Commission shall publish a report detailing the activities of the
28 Commission for the prior year. The report shall include the number of complaints filed with the Commission; the number of
29 complaints originating from attorneys, judges, court employees, or the general public; the number of complaints dismissed
30 based on (i) failure to fall within the jurisdiction of the Commission, (ii) failure to state a violation of the Canons of Judicial
31 Conduct, or (iii) failure of the Commission to reach a conclusion that the Canons were breached; the number of complaints for
32 which the Commission concluded that the Canons of Judicial Conduct were breached; and the number of cases from which
33 the staff or any member of the Commission recused himself due to an actual or possible conflict.

34 **DRAFTING NOTE:** Technical corrections only.

35 ~~§ 2.1-37.2~~ 17.1-906. Jurisdiction of Supreme Court.
36 In addition to the jurisdiction conferred on the Supreme Court by Article VI, Section 1 and Section 10 of the
37 Constitution of Virginia, to conduct hearings and impose sanctions upon the filing by the Commission of complaints against
38 justices of the Supreme Court, judges of other courts of record, and members of the State Corporation Commission, the
39 Supreme Court by virtue of this chapter shall have the same jurisdiction, to be exercised in the same manner, upon the filing
40 by the Commission of complaints against all other judges as defined ~~herein~~ in this chapter.

41 **DRAFTING NOTE:** Technical corrections only.

42 ~~§ 2.1-37.9~~ 17.1-907. Oaths; inspection of books and records; subpoenas.
43 In the conduct of investigations and formal hearings, the Commission may ~~(a)~~(i) administer oaths and affirmations;
44 ~~(b)~~(ii) order and otherwise provide for the inspection of books and records; and ~~(c)~~(iii) issue subpoenas for the attendance of
45 witnesses and the production of papers, books, accounts, documents, and other records or tangible evidence relevant to any
46 such investigation or formal hearing.

47 The power to administer oaths and affirmations, to issue subpoenas, or to make orders for or concerning the
48 inspection of books and records may be exercised by any member of the Commission, unless the Commission shall
49 otherwise determine.

50 **DRAFTING NOTE:** Technical corrections only.

§-2.1-37.10 17.1-908. Scope of process.

In any investigation or formal proceeding in any part of the Commonwealth, any process issued pursuant to the provisions of §-2.1-37.9 17.1-907 shall be effective throughout the Commonwealth.

DRAFTING NOTE: Technical corrections only.

§-2.1-37.11 17.1-909. Order compelling witness to attend and testify.

If any person refuses to attend or testify or produce any writings or things required by any such subpoena, the Commission may petition any court of record in the Commonwealth for an order compelling such person to attend and testify or produce the writings or things required by the subpoena before the Commission. The court shall order such person to appear before it at a specified time and place and ~~then and there~~ show cause why he had not attended or testified or produced the writings or things as required. A copy of the order shall be served upon him. If it appears to the court that the subpoena was regularly issued, the court shall order such person to appear before the Commission at the time and place fixed in the order and testify or produce the required writings or things. Upon failure to obey the order, such person shall be dealt with by such court as for contempt of court.

All process in any such case may be served in the manner prescribed by law for service of process in civil actions.

DRAFTING NOTE: Technical corrections only.

§-2.1-37.12 17.1-910. Depositions.

In any pending investigation or formal hearing, the Commission may order the deposition of a person residing within or without the Commonwealth to be taken in such form and subject to such limitations as may be prescribed in the order. If the subject judge and counsel for the Commission do not stipulate as to the manner of taking the deposition, either the judge or counsel for the Commission may file in a trial court of record a petition entitled "In the Matter of Proceeding of Judicial Inquiry and Review Commission No. (state number)" and stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and directions, if any, of the Commission, asking that an order be made requiring such person to appear and testify before a designated officer. Upon the filing of the petition, the court may make an order requiring such person to appear and testify. A subpoena for such deposition shall be issued by the clerk of the court and the deposition shall be taken and returned, in the manner prescribed by law for depositions in civil actions. Upon failure of the person named in the subpoena to appear and testify, he shall be dealt with by such court as for contempt of court. If the deposition is that of a person residing or present within this Commonwealth, the petition shall be filed in the court of record of the county or corporation in which such person resides or is present; otherwise in the Circuit Court of the City of Richmond.

DRAFTING NOTE: Technical corrections only.

§-2.1-37.12:4 17.1-911. Suspension of judge.

A. In any pending investigation or formal hearing, the Commission may suspend a judge with pay if it finds that there is probable cause to believe that the continued performance of judicial duties by the judge constitutes both a substantial and immediate threat to the public interest in the administration of justice.

B. The Commission shall give the judge reasonable notice of such suspension as prescribed by the rules of the Commission and, if requested by the judge or his attorney, shall schedule a hearing during the first fifteen days of the suspension in order to determine whether justice would be served for the suspension to continue until the completion of the investigation or formal hearing. There shall be no investigation or formal hearing conducted or a suspension imposed relating to matters which are the subject of a pending criminal case in which a judge is the defendant until final disposition of such case by a court of competent jurisdiction, including the exhaustion of all appeals.

C. Any judge whose powers are suspended by the Commission shall not exercise judicial powers during such suspension, but shall continue to be bound by the Canons of Judicial Conduct.

DRAFTING NOTE: Technical corrections only.

§-2.1-37.12:2 17.1-912. Physical or mental examination.

A. Whenever the Commission has probable cause to believe a judge is unable to perform his duties as a judge because of excessive use of alcohol or drugs or physical or mental illness, the Commission, after preliminary investigation by informal conference, may direct that the judge submit to a mental or physical examination by a health care provider approved by the Commission after consultation with the judge. The health care provider's report shall be in writing. Upon request, the judge shall provide the Commission with all waivers and releases necessary to authorize the Commission to receive all medical records, reports, and information from any health care provider regarding the judge's mental or physical condition.

B. Any judge ordered to be examined pursuant to this section shall be afforded reasonable notice and an opportunity for a hearing before such examination is conducted as to any matters regarding the examination and as to whether there is probable cause to believe that the judge is unable to perform his duties as a judge because of excessive use of alcohol or drugs or physical or mental illness. During such hearing, the judge shall have the right to call witnesses on his behalf.

1 C. All costs related to examinations conducted at the direction of the Commission shall be paid out of sum
2 appropriated for the operation of the Commission. The failure of a judge to submit to an examination ordered pursuant to this
3 section or to provide waivers and releases required by this section shall constitute grounds for a new charge.

4 **DRAFTING NOTE:** Technical corrections only.

5 ~~§ 2-1-37-13~~ 17.1-913. Confidentiality of papers and proceedings.

6 All papers filed with and proceedings before the Commission, and under ~~§§ 2-1-37-14~~ 17.1-909 and ~~2-1-37-12~~ 17.1-
7 910, including the identification of the subject judge as well as all testimony and other evidence and any transcript thereof
8 made by a reporter, shall be confidential and shall not be divulged, other than to the Commission, by any person who (i)
9 either files a complaint with the Commission, or receives such complaint in an official capacity; ~~or~~ (ii) investigates such
10 complaint; (iii) is interviewed concerning such complaint by a member, employee or agent of the Commission; ~~or~~ or (iv)
11 participates in any proceeding of the Commission; or in the official recording or transcription thereof, except that the record of
12 any proceeding filed with the Supreme Court shall lose its confidential character. However, if the Commission finds cause to
13 believe that any witness under oath has willfully and intentionally testified falsely, the Commission may direct the chairman or
14 one of its members to report such finding and the details leading thereto including any transcript thereof to the attorney for the
15 Commonwealth of the city or county where such act occurred for such disposition as to a charge of perjury as the
16 Commonwealth may be advised. In any subsequent prosecution for perjury based thereon, the proceedings before the
17 Commission relevant thereto shall lose their confidential character.

18 All records of proceedings before the Commission which are not filed with the Supreme Court in connection with a
19 formal complaint filed with that tribunal, shall be kept in the confidential files of the Commission.

20 However, a judge who is under investigation by the Commission, or any person authorized by him, may divulge
21 information pertaining to a complaint filed against such judge as may be necessary for the judge to investigate the allegations
22 in the complaint in preparation for the proceedings before the Commission.

23 **DRAFTING NOTE:** Technical corrections only.

24 ~~§ 2-1-37-14~~ 17.1-914. Privilege.

25 The filing of papers with and the giving of testimony before the Commission shall be privileged, except where such
26 filing of papers or giving of testimony is motivated or accompanied by actual malice. No other publication of such papers or
27 proceedings shall be privileged in any action for defamation except that ~~(a)~~(i) the record filed by the Commission with the
28 Supreme Court, in support of a formal complaint filed therewith, continues to be privileged and ~~(b)~~(ii) a writing which was
29 privileged before its filing with the Commission ~~does~~ shall not lose such privilege by such filing.

30 **DRAFTING NOTE:** Technical corrections only.

31 ~~§ 2-1-37-15~~ 17.1-915. Witness fees; mileage; exception.

32 A. Each witness, other than an officer or employee of the Commonwealth or a political subdivision thereof, or an
33 officer or an employee of a court of this Commonwealth, shall receive for his attendance the same fees and all witnesses
34 shall receive the same mileage allowed by law to a witness in civil cases. The amount shall be paid by the Commission from
35 funds appropriated for the use of the Commission.

36 B. This section shall not apply to an officer or employee of the Commonwealth or a political subdivision thereof, or an
37 officer or an employee of a court of the Commonwealth.

38 **DRAFTING NOTE:** Technical corrections only.

39 ~~§ 2-1-37-16~~ 17.1-916. Costs.

40 No award of costs shall be made in any proceeding before the Commission or the Supreme Court.

41 **DRAFTING NOTE:** Technical corrections only.

42 ~~§ 2-1-37-17~~ 17.1-917. Assistance and information.

43 State and local public bodies and departments, officers and employees thereof, and officials and all personnel of the
44 courts of ~~this the~~ Commonwealth shall cooperate with and give reasonable assistance and information to the Commission
45 and any authorized representative thereof, in connection with any investigations or proceedings within the jurisdiction of the
46 Commission.

47 **DRAFTING NOTE:** Technical corrections only.

48 ~~§ 2-1-37-17-1~~ 17.1-918. ~~(Contingent effective date—see notes)~~ Transmission of certain information to Virginia State
49 Bar, House and Senate Committees for Courts of Justice, and other members of the General Assembly.

1 A. The Judicial Inquiry and Review Commission shall transmit to the appropriate District Committee of the Virginia
2 State Bar any complaint or evidence that may come to its attention with reference to the alleged misconduct of a judge or
3 substitute judge which relates to his private practice of law.

4 B. The Commission shall also transmit any evidence that it has in its possession with reference to the alleged
5 misconduct of any judge whose election is to be considered at the next session of the General Assembly to (i) the House and
6 Senate Committees for Courts of Justice and (ii) any member of the General Assembly, upon request. Such evidence shall
7 include the nature of the complaint, the current status of the complaint, the duration of any suspension and the evidence
8 supporting the probable cause finding therefor, a description of any remedial course of action, and a statement concluding
9 whether any such remedial course was successfully undertaken. A copy of any evidence in whatever form so transmitted
10 shall be sent to the judge in question. Any member of the General Assembly who knowingly discloses such information shall
11 be subject to any sanctions which may be imposed by the Committee on Standards of Conduct.

12 **DRAFTING NOTE:** Technical corrections only.

13 ~~§ 2-1-37.18~~ 17.1-919. Service of process; execution of orders.

14 It shall be the duty of the sheriffs and sergeants in the several counties, cities, and towns, upon request of the
15 Commission or its authorized representative, to serve process and execute all lawful orders of the Commission or entered by
16 the court at its request without costs therefor.

17 **DRAFTING NOTE:** Technical corrections only.

18 Title 37.1.

19 CHAPTER 16.

20 OFFICE OF THE INSPECTOR GENERAL FOR MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE
21 SERVICES.

22 ~~§ 2-1-815~~ 37.1-255. Office created; appointment of Inspector General for Mental Health, Mental Retardation and
23 Substance Abuse Services.

24 There is hereby created the Office of Inspector General for Mental Health, Mental Retardation and Substance Abuse
25 Services to inspect, monitor and review the quality of services provided in the facilities operated by the Department of Mental
26 Health, Mental Retardation and Substance Abuse Services. The Inspector General for Mental Health, Mental Retardation and
27 Substance Abuse Services shall be appointed by the Governor, subject to confirmation by the General Assembly, and report
28 to the Governor. The Inspector General for Mental Health, Mental Retardation and Substance Abuse Services shall be
29 appointed initially for a term that expires one full year following the end of the Governor's term of office, and, thereafter, the
30 term shall be for four years. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be
31 effective until thirty days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the
32 remainder of such term.

33 **DRAFTING NOTE:** Technical corrections only. This proposed section is § 2.1-815 that has been relocated here from Title
34 2.1.

35 ~~§ 2-1-816~~ 37.1-256. Powers and duties of Inspector General for Mental Health, Mental Retardation and Substance
36 Abuse Services.

37 The Inspector General for Mental Health, Mental Retardation and Substance Abuse Services shall have the following
38 powers and duties:

39 1. To operate and manage the Office of the Inspector General for Mental Health, Mental Retardation and Substance
40 Abuse Services and to employ such personnel as may be required to carry out the provisions of this chapter.

41 2. To make and enter contracts and agreements as may be necessary and incidental to carry out the provisions of
42 this chapter, and to apply for and accept grants from the United States government and agencies and instrumentalities
43 thereof, and any other source, in furtherance of the provisions of this chapter.

44 3. To prepare reports for the Governor concerning inspections and reviews of facilities.

45 4. To prepare an annual report by December 1 concerning activities, inspections, reviews, and recommendations for
46 the General Assembly.

47 **DRAFTING NOTE:** Technical corrections only. This proposed section is § 2.1-816 that has been relocated here from Title
48 2.1.

49 ~~§ 2-1-817~~ 37.1-257. Powers and duties of the Office of the Inspector General for Mental Health, Mental Retardation
50 and Substance Abuse Services.

51 The Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services shall have
52 the following powers and duties:

1 1. To provide oversight and conduct announced and unannounced inspections of the facilities operated by the
2 Department of Mental Health, Mental Retardation and Substance Abuse Services on an ongoing basis, in response to
3 specific complaints of abuse, neglect or inadequate care, and as a result of monitoring of serious-incident reports and reports
4 of abuse, neglect or inadequate care or other information received, and to make recommendations to the Governor, the
5 Secretary of Health and Human Resources and the Commissioner of the Department of Mental Health, Mental Retardation
6 and Substance Abuse Services on methods to improve the quality of care in such facilities.

7 2. To access any and all information related to the delivery of services, including confidential patient or resident
8 information, to patients or residents in facilities operated by the Department of Mental Health, Mental Retardation and
9 Substance Abuse Services. Such patient or resident information shall be maintained by the Office of the Inspector General as
10 confidential in the same manner as is required by the state agency from which the information was obtained.

11 3. To monitor any reports prepared by the Department of Mental Health, Mental Retardation and Substance Abuse
12 Services and the critical-incident data collected by the Department of Mental Health, Mental Retardation and Substance
13 Abuse Services in accordance with regulations promulgated under § 37.1-84.1 to identify issues related to quality of care,
14 seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.

15 4. To monitor and participate in the promulgation of regulations by the State Mental Health, Mental Retardation and
16 Substance Abuse Services Board.

17 5. To receive reports, information and complaints from the Department for Rights of Virginians with Disabilities
18 concerning issues related to quality of care and to conduct independent reviews and investigations.

19 **DRAFTING NOTE:** Technical corrections only. This proposed section is § 2.1-817 that has been relocated here from Title
20 2.1.

21 CHAPTER 17.

22 MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES TRUST FUND.

23 § 2.1-812 37.1-258. Definitions.

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

25 "Commissioner" means the Commissioner of the Department of Mental Health, Mental Retardation and Substance
26 Abuse Services.

27 "Fund" means the Mental Health, Mental Retardation and Substance Abuse Services Trust Fund.

28 "Net proceeds" means the gross amount received by the seller on account of the sale of any assets (i) less costs
29 incurred on behalf of the seller in connection with such sale and (ii) if after the sale the sold assets will be used by an entity
30 other than a state agency or instrumentality or a local governmental entity in a governmental activity and debt obligations
31 financed any portion of the sold assets and any amount of such obligations is outstanding at the time of the sale, less the
32 amount necessary to provide for the payment or redemption of the portion of such outstanding obligations that financed the
33 sold assets (which amount shall be used to pay or redeem such obligations or shall be transferred to the third party issuer of
34 the obligations for a use permitted in accordance with such obligations).

35 **DRAFTING NOTE:** Technical corrections only. This proposed section is § 2.1-812 that has been relocated here from Title 2.1.

36 § 2.1-813 37.1-259. Mental Health, Mental Retardation and Substance Abuse Services Trust Fund established;
37 purpose.

38 There is hereby created in the state treasury a special nonreverting fund to be known as the Mental Health, Mental
39 Retardation and Substance Abuse Services Trust Fund to enhance and ensure for the coming years the quality of care and
40 treatment provided to consumers of the Commonwealth's mental health, mental retardation, and substance abuse services.
41 The Fund shall be established on the books of the Comptroller. Notwithstanding the provisions of § ~~2.1-5122.2-1156~~, the
42 Fund shall consist of the net proceeds of the sale of vacant buildings and land held by the Department of Mental Health,
43 Mental Retardation and Substance Abuse Services. The Fund shall also consist of such moneys as shall be appropriated by
44 the General Assembly and any private donations. Interest earned on moneys in the Fund shall remain in the Fund and be
45 credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to
46 the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this
47 chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
48 Comptroller upon written request signed by the Commissioner.

49 **DRAFTING NOTE:** Technical corrections only. This proposed section is § 2.1-813 that has been relocated here from Title
50 2.1.

51 § 2.1-814 37.1-260. Administration of Mental Health, Mental Retardation and Substance Abuse Services Trust Fund.

52 The Fund shall be administered by the Commissioner. Moneys in the Fund shall be used solely to provide mental
53 health, mental retardation, and substance abuse services to enhance and ensure the quality of care and treatment provided
54 by the Commonwealth to persons with mental health, mental retardation and substance abuse illnesses. Notwithstanding any

1 other provision of law, the net proceeds from the sale of any vacant buildings and land shall first be used to (i) deliver mental
2 health, mental retardation, and substance abuse services within the same service area as where such sold buildings and land
3 were located to ensure the same level of mental health, mental retardation, and substance abuse care as before such sale
4 and (ii) provide benefits to those persons who were employees of the Commonwealth and, as a result of such sale, are either
5 no longer employed by the Commonwealth or are otherwise negatively affected by such sale. Such benefits shall include, but
6 are not limited to, appropriate transitional benefits.

7 **DRAFTING NOTE:** Technical corrections only. This proposed section is § 2.1-814 that has been relocated here from Title
8 2.1.

9 Title 42.1.

10 LIBRARIES.

11 ~~§ 2.1-467.1~~ 42.1-19.1. Definitions.

12 As used in ~~§§ 2.1-467.2 through 2.1-467.8~~ 42.1-19.1 through 42.1-19.4, "agency"

13 "Agency" includes every agency, board, commission, office, department, division, institution or other entity of any
14 branch of the state government.

15 "Publication" includes all written documents fixed in any tangible format which can be understood, reproduced, or
16 otherwise communicated, either directly or with the aid of a machine or device, and issued by an agency of the
17 Commonwealth in full or in part at state expense. Publication excludes those written documents ~~which~~ that apply solely to the
18 agency's administrative and internal operations.

19 **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with duties of
20 the Librarian of Virginia.

21 ~~§ 2.1-467.5~~ 42.1-19.2. Annual listing.

22 The Librarian of Virginia shall compile an annual listing of all publications printed by each state agency during the
23 previous fiscal year, to include the quantity of each publication printed and the costs to print and distribute each publication.

24 **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with duties of
25 the Librarian of Virginia.

26 ~~§ 2.1-467.7~~ 42.1-19.3. Librarian of Virginia to prepare and publish catalog.

27 The Librarian of Virginia shall prepare, publish and make available annually a catalog of publications printed by state
28 agencies. Each such publication shall be indexed by subject, author and issuing agency. The date of publication of each
29 listed publication shall be noted in the catalog together with information showing, in appropriate cases, that library copies only
30 are available. To the extent such information is available, the catalog shall set forth the price charged, if any, of each
31 publication and how and where the same may be obtained.

32 **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with duties of
33 the Librarian of Virginia.

34 ~~§ 2.1-467.8~~ 42.1-19.4. Distribution of catalog.

35 The catalog shall be made available without cost to persons indicating a continuing interest in such catalog. Copies
36 sent out of state shall be on an exchange basis or at a price sufficient to equal the unit cost of printing and mailing;
37 complimentary copies may be made available by the Librarian of Virginia.

38 **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with duties of
39 the Librarian of Virginia.

40 Title 51.1.

41 CHAPTER 13.

42 HEALTH INSURANCE CREDITS FOR CERTAIN RETIREES.

43 ~~§ 2.1-20.4:2~~ 51.1-1300. Health insurance credits for retired state employees.

44 A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any former state
45 employee, as defined in ~~§ 2.1-20.4~~ 2.2-2818, who retired under the Virginia Retirement System, State Police Officers
46 Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system
authorized pursuant to § 51.1-126 and who (i) rendered at least fifteen years of total creditable service under the Retirement
System or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the
47 retirement system from 1972 to 1985 immediately following such temporary service. The amount of each monthly health
48 insurance credit payable under this section shall be four dollars per year of creditable service, not to exceed a maximum
49
50

1 monthly allowance of \$120, which amount shall be credited monthly to any retired state employee participating in the
2 retiree health benefits program pursuant to ~~§ 2-1-20.4-6~~ 51.1-1305 or an alternative personal health insurance plan.
3 provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided
4 under such alternative personal health insurance plan. Any retired state employee retired under the provisions of §§ 51.1-156
5 and 51.1-307 shall receive the maximum credit provided by this section. Any person included in the membership of a
6 retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-
7 300 et seq.) of Title 51.1 who elects to defer his retirement pursuant to subsection C of §§ 51.1-153, 51.1-205 or § 51.1-305
8 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

9 **B.4. For those retired state employees participating:**

10 1. Participating in the state retiree health benefits program, such credit shall be applied to the monthly premium
11 deducted from benefits payable to retired state employees in accordance with Chapters 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-
12 200 et seq.), 2.1 (§ 51.1-211 et seq.), and 3 (§ 51.1-300 et seq.) of Title 51.1. In the event that either no benefit is payable or
13 the benefit payable is insufficient to deduct the entire health care premium, the payment of the credit shall be determined in
14 the manner prescribed by the Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed
15 by the Virginia Retirement System.

16 2. ~~For those retired state employees not~~ Not electing or eligible to participate in the state retiree health benefits
17 program and who purchase an alternative personal health insurance policy from a carrier or organization of his own choosing,
18 such retirees shall be eligible to receive a credit in the amount specified in subsection A. Eligibility for the credit and payment
19 for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

20 ~~3C.~~ Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2
21 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) of Title 51.1 who (i) rendered at least fifteen years of
22 total creditable service as a state employee as defined in § ~~2-1-20.4~~ 2.2-2818 and (ii) after terminating state service, was
23 employed by a local government that does not elect to provide a health insurance credit under § ~~2-1-20.4-3~~ 51.1-1301 or §
24 ~~2-1-20.4-4~~ 51.1-1302, shall be eligible for the credit provided by subsection A, provided that the retired employee is
25 participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection
26 ~~GD.~~ In such case, the health insurance credit shall be determined based upon the amount of state service or service as a
27 teacher, whichever is greater.

28 ~~GD.~~ The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by
29 this section to reflect the cost of such credits in the employer contribution rate pursuant to § 51.1-145, and prescribe
30 terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administ
31 of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust
32 fund.

33 ~~DE.~~ Notwithstanding anything contained in this section to the contrary, the Virginia Commonwealth University Health
34 System Authority shall pay the cost of coverage for employees of such Authority who (i) retired under the Virginia Retirement
35 System or any retirement system authorized pursuant to §§ 23-50.16:24.1, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii)
36 were employed by such Authority prior to July 1, 1998, and were not subsequently rehired by such Authority on or after July
37 1, 1998; and (iii) served no less than fifteen years of creditable service as regularly employed full-time employees of such
38 Authority or the Commonwealth.

39 **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with retirees.

40 ~~§ 2-1-20.4-3~~ 51.1-1301. Health insurance credits for retired teachers.

41 A. A teacher, as defined in § 51.1-124.3, retired under the Virginia Retirement System who rendered at least fifteen
42 years of total creditable service under the System shall receive a health insurance credit to his monthly retirement allowance,
43 which shall be applied to reduce the retired member's health insurance premium cost. The amount of each monthly health
44 insurance credit payable under this section shall be two dollars and fifty cents for each full year of the retired member's
45 creditable service, not to exceed a maximum monthly credit of seventy-five dollars; however, each former member whose
46 retirement was for disability shall receive a monthly health insurance credit of seventy-five dollars. Eligibility for the credit shall
47 be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement
48 pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the
49 effective date of his retirement. The cost of such credit shall be borne by the Commonwealth.

50 B. In addition to the health insurance credit authorized in subsection A, localities which participate in the Virginia
51 Retirement System may elect to provide an additional health insurance credit of one dollar per month for each full year of the
52 retired member's creditable service, not to exceed a maximum monthly credit of thirty dollars. The costs of such additional
53 health insurance credit shall be borne by the locality.

54 C.4. Those retired employees who purchase an alternative personal health insurance policy from a carrier or
55 organization of their own choosing shall be eligible to receive a credit in the amount specified in ~~subsection C-2~~ subsection D.
56 Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia Retirer
57 System.

1 | 2D. The credit shall be in (i) the amount provided in subsection A, or subsection A and subsection B if the additional
2 | credit authorized by subsection B is provided or (ii) the amount of premium paid for the personal health insurance policy,
3 | whichever is less.

4 | 3E. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2
5 | (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) of Title 51.1 who (i) rendered at least fifteen years of
6 | total creditable service as a teacher as defined in § 51.1-124.3 and (ii) after terminating service as a teacher, was employed
7 | by a local government that does not elect to provide a health insurance credit under ~~§ 2.1-20.1:4 51.1-1302~~, shall be eligible
8 | for the credit provided by subsection A and subsection B if provided by the school division from which the service described in
9 | clause (i) was rendered, provided that the retired employee is participating in a health insurance plan. The Commonwealth
10 | and local school division, if appropriate, shall be charged with the credit as provided for in subsection ~~DE~~. In such case, the
11 | health insurance credit shall be determined based upon the amount of state service or service as a teacher, whichever is
12 | greater.

13 | DE. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all credits provided
14 | under this section, (ii) reflect the cost of such credits in the applicable employer contribution rate pursuant to §§ 51.1-145,
15 | 51.1-204, and 51.1-304, and (iii) prescribe such terms and conditions as are necessary to carry out the provisions of this
16 | section. The costs associated with the administration of the health insurance program provided for in this section shall be
17 | recovered from the health insurance credit trust fund.

18 | **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with retirees.

19 | ~~§ 2.1-20.1:4 51.1-1302~~. Health insurance credits for retired local government employees.

20 | A. Retired local government employees, whose localities have elected to participate in the Virginia Retirement
21 | System, who have rendered at least fifteen years of total creditable service under the System shall receive a health insurance
22 | credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium
23 | cost, provided the retiree's employer elects to participate in the credit program. The amount of each monthly health insurance
24 | credit payable under this section shall be \$1.50 for each full year of the retired member's creditable service, not to exceed a
25 | maximum monthly credit of forty-five dollars; however, each former member whose retirement was for disability shall receive
26 | a monthly health insurance credit of forty-five dollars. Eligibility for the credit shall be determined in a manner prescribed by
27 | the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall
28 | be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

29 | B. ~~4~~. Those retired employees who purchase an alternative policy from a carrier or organization of their own
30 | choosing shall be eligible to receive a credit in the amount specified in subsection ~~B-2 C~~. Eligibility for the credit and payment
31 | of the credit shall be determined in a manner prescribed by the Virginia Retirement System.

32 | 2C. The credit shall be in the amount provided in subsection A or the amount of premium paid for the personal health
33 | insurance policy, whichever is less.

34 | CD. The cost of the monthly health insurance credit payable under this section shall be borne by the locality.

35 | DE. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided
36 | under this section, reflect the cost of such credits in the applicable employer contribution rate pursuant to § 51.1-145, and
37 | prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with
38 | the administration of the health insurance credit program provided for in this section shall be recovered from the health
39 | insurance credit trust fund.

40 | **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with retirees.

41 | ~~§ 2.1-20.1:7 51.1-1303~~. Health insurance credits for retired constitutional officers, employees of constitutional
42 | officers, and local social service employees.

43 | A. A local officer, as defined in § 51.1-124.3, or an employee of a local social services board, retired under the
44 | Virginia Retirement System who rendered at least fifteen years of total creditable service under the System shall receive a
45 | health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health
46 | insurance premium cost. The amount of each monthly health insurance credit payable under this section shall be one dollar
47 | and fifty cents for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of forty-
48 | five dollars; however, each former member whose retirement was for disability shall receive a monthly health insurance credit
49 | of forty-five dollars. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System.
50 | Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the
51 | allowable credit provided by this section on the effective date of his retirement. The cost of such credit shall be borne by the
52 | Commonwealth.

53 | B. In addition to the health insurance credit authorized in subsection A, localities which participate in the Virginia
54 | Retirement System may elect to provide an additional health insurance credit of one dollar per month for each full year of the
55 | retired member's creditable service, not to exceed a maximum monthly credit of thirty dollars. The costs of such additional
56 | health insurance credit shall be borne by the locality.

1 C. 1. Those retired employees who purchase an alternative personal health insurance policy from a carrier or
2 organization of their own choosing shall be eligible to receive a credit in the amount specified in subdivision C. 2-of this
3 section. Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia
4 Retirement System.

5 2. The credit shall be in (i) the amount provided in subsection A, or subsection A and subsection B if the additional
6 credit authorized by subsection B is provided or (ii) the amount of premium paid for the personal health insurance policy,
7 whichever is less.

8 D. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all credits provided
9 under this section, (ii) reflect the cost of such credits in the applicable employer contribution rate pursuant to § 51.1-145, and
10 (iii) prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated
11 with the administration of the health insurance program provided for in this section shall be recovered from the health
12 insurance credit trust fund.

13 **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with retirees.

14 ~~§ 2-1-20.1-5 51.1-1304. (Contingent effective date — see note)~~ Optional supplemental health insurance credit for
15 retired state employees.

16 A. As used in this section, "lump sum payment amount" means the amount a state employee is entitled to be paid
17 upon the date of retirement from state service, in accordance with the applicable rules and procedures of the employee's
18 agency or institution, for any (i) accumulated annual leave balance, (ii) accumulated sick leave balance, and (iii) wages and
19 salary for any period for which the employee worked and has not yet been paid.

20 B. Any state employee retiring from service pursuant to subsection A, B or D of § 51.1-153, § 51.1-156, subsection
21 A, B or D of § 51.1-205, or subsection A, B or B1 of § 51.1-305 on or after July 1, 1999, who participates in the state health
22 insurance plan, shall have the option to require that his lump sum payment amount be credited to a supplemental health
23 insurance credit account which would qualify under Internal Revenue Code § 125 to be used to supplement the amount of the
24 monthly health insurance credit provided pursuant to ~~§ 2-1-20.1-2 51.1-1300~~. Such option shall be irrevocably exercised on or
25 before the employee's last day of service.

26 C. Amounts credited to supplemental health insurance credit accounts shall be deposited in a special fund in the
27 state treasury. Interest accruing on amounts in the special fund shall be credited pro rata among the accounts. Amounts shall
28 be paid from the special fund at the request of the Department of Human Resource Management, which shall determine, in
29 cooperation with the Board of Trustees of the Virginia Retirement System, the amount required to be withdrawn from an
30 electing retired employee's supplemental health insurance credit account in order to cover, in conjunction with the health care
31 credit, the premium for the retiree-only or family health insurance coverage.

32 D. Amounts in a retiree's supplemental health insurance credit account shall be exempt from taxation and exempt
33 from execution, attachment, garnishment or any other process to the same extent, and subject to the same conditions, as are
34 retirement allowances and benefits pursuant to § 51.1-124.4.

35 E. In the event that an electing retiree dies prior to exhausting the amount in the retiree's supplemental health
36 insurance credit account, the balance in the account shall be paid in the same manner as provided in § 51.1-163.

37 **DRAFTING NOTE:** Technical corrections only. This section was relocated here from Title 2.1 because it deals with retirees.

38 ~~§ 2-1-20.1-6 51.1-1305.~~ Participation in the state retiree health benefits program.

39 A. As used in this section, unless the context requires a different meaning:

40 "Involuntarily separated" means separated from state service as the result of any dismissal, requested resignation,
41 or failure to obtain reappointment, excluding a separation resulting from a conviction for a felony or crime involving moral
42 turpitude or dishonesty or a separation related to the job performance or misconduct of the state employee.

43 "Retiree health benefits program" or "program" means the plan for providing health insurance coverage for retired
44 state employees provided pursuant to subsection E of ~~§ 2-1-20.1-2 2.2-2818~~.

45 "State employee" ~~has means~~ the same meaning as that term is defined in § 2-1-20.1-2 2.2-2818.

46 "State retiree" means a state employee retired under the Virginia Retirement System, State Police Officers'
47 Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system
48 authorized pursuant to § 51.1-126, who is eligible to receive a monthly retirement annuity from that retirement system.

49 B. A state retiree shall be eligible to participate in the retiree health benefits program only if he makes an election to
50 participate in the program within thirty-one days following the date of termination of employment with the Commonwealth. A
51 retired state employee who fails to elect to participate in the state health plan within thirty-one days of the effective date of
52 retirement, or who, once having elected to participate, discontinues participation, is barred from participating in the state
53 health plan thereafter.

54 C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the retiree health
55 benefits program and is receiving monthly retirement annuity payments may elect, by notifying the Virginia Retirement System

and the Department of Human Resource Management before September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such benefits at a later date and to continue participation in the retiree health benefits program.

DRAFTING NOTE: Technical corrections only. This section was relocated here from Title 2.1 because it deals with retirees.

IV. CONVERSION TABLES

Title 2.1 - ADMINISTRATION OF THE GOVERNMENT GENERALLY

OLD SECTION	NEW SECTION
Chapter 1 - Administrative Departments Generally	
2.1-1.1	Deleted
2.1-1.2	2.2-600
2.1-1.3	Deleted
2.1-1.4	Deleted
2.1-1.5	Deleted
2.1-1.6	Deleted
2.1-1.7	Deleted
2.1-1.8	Deleted
2.1-1.9	Deleted
2.1-2.1	2.2-608
2.1-2.2	2.2-610
2.1-3	2.2-611 A
2.1-4	2.2-611 B
2.1-7	2.2-614
2.1-7.1	2.2-613
2.1-7.2	2.2-606
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2.1-8.2	2.2-128
2.1-8.3	2.2-129
2.1-8.4	2.2-130
2.1-8.5	2.2-131
2.1-8.6	2.2-132 A
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2.1-8.8	2.2-133

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2.1-17.1	2.2-2829
2.1-18	2.2-2830 A
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2.1-20.01	2.2-2812
2.1-20.01:1	2.2-603
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OLD SECTION	NEW SECTION
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2.1-20.1:02	2.2-1204
2.1-20.1:03	2.2-2819
2.1-20.1:04	2.2-1205
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2.1-20.1:06	2.2-2820
2.1-20.1:1	2.2-2822
2.1-20.1:2	51.1-1300
2.1-20.1:3	51.1-1301
2.1-20.1:4	51.1-1302
2.1-20.1:5	51.1-1304
2.1-20.1:6	51.1-1305
2.1-20.1:7	51.1-1303
2.1-20.1:8	2.2-2817

Chapter 2.1 - Salaries, Compensation and Expenses

2.1-20.2	2.2-2813 A
2.1-20.3	2.2-2104 B-D 2.2-2813 B-D
2.1-20.4	Deleted
2.1-20.5	2.2-2814
2.1-20.6	2.2-2815
2.1-20.7	2.2-2816
2.1-20.8	2.2-2823 A
2.1-20.9	2.2-2824
2.1-20.10	2.2-2825
2.1-20.11	2.2-2826
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Chapter 3 - Holidays and Special Days; Hours of Work, etc

2.1-21	2.2-3300
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2.1-23	6.1-5.4
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2.1-24.2	2.2-3305
2.1-25	2.2-3306
2.1-26	2.2-3307

Title 2.1 - ADMINISTRATION OF THE GOVERNMENT GENERALLY

OLD SECTION	NEW SECTION
2.1-27	2.2-3308
2.1-27.1	2.2-3317
2.1-27.2	2.2-3309
2.1-27.3	2.2-3310
2.1-27.4	2.2-3319
2.1-27.5	2.2-3321
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2.1-27.8	2.2-3313
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2.1-27.11	2.2-3316
2.1-28	2.2-3318
2.1-29	2.2-3322

Chapter 4 - Disabilities to Hold Office

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2.1-32.1	2.2-2804
2.1-33	2.2-2801
2.1-34	2.2-2805
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9-84.03	2.2-2509 B
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9-84.05	2.2-2103
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9-84.09	2.2-2700 B-E
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9-172	Deleted
9-173	9.1-116
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9-183.8	9.1-146
9-183.9	9.1-149
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9-183.14	9.1-165
9-183.15	9.1-167
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9-193	9.1-133
9-194	9.1-135
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9-196	9.1-137
9-196.1	9.1-117
9-196.4	9.1-119
9-196.5	9.1-118 A & C
9-196.6	9.1-118 B
9-196.7	9.1-120
9-196.8	9.1-123
9-196.9	9.1-124
9-196.10	9.1-125
9-196.11	9.1-121
9-196.12	9.1-122

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9-198	2.2-2280 A
9-199	2.2-2279 B
9-200	2.2-2281
9-201	2.2-2280 B
9-202	2.2-2282
9-203	2.2-2283
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9-205	2.2-2285
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9-209	2.2-2288
9-210	2.2-2289
9-211	2.2-2290
9-212	2.2-2291 A
9-213	2.2-2291 B
9-214	Deleted
9-215	2.2-2291 C
9-216	2.2-2292
9-217	2.2-2293
9-218	2.2-2294
9-219	2.2-2295
9-220	2.2-2296
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9-223	2.2-2299
9-224	2.2-2300
9-225	2.2-2301
9-226	2.2-2302
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9-228	2.2-2285
9-228.1	2.2-2309 A
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9-228.4	2.2-2309 D-F
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9-228.6	2.2-2310 B
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9-251	2.2-2218 B
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9-256	2.2-2223
9-257	2.2-2224
9-258	2.2-2225
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9-265	2.2-2229
9-265.1	2.2-2233
9-266	Deleted

Chapter 29.1 - Virginia Commercial Space Flight Authority Act

9-266.1	2.2-2201 A
9-266.2	2.2-2201 B
9-266.3	2.2-2202
9-266.4	2.2-2203
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9-266.13	2.2-2216
9-266.14	2.2-2217
9-266.15	2.2-2215
9-266.16	2.2-2212
9-266.17	2.2-2213
9-266.18	2.2-2214
9-266.19	Deleted

Chapter 30 - Virginia Council on Coordinating Prevention

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9-269	2.2-2658 B and C
9-270	2.2-2658 D 2.2-2659
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9-302	Deleted
9-303	Deleted
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Chapter 35.1 - Capitol Square Preservation Council

9-304.1	2.2-2611 E
9-304.2	2.2-2611 A-D
9-304.3	2.2-2612
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9-319	2.2-2642 C 2.2-2643

Chapter 40 - Specialized Transportation Council

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9-321	2.2-2644 B-D
9-322	2.2-2645
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Chapter 41 - Advisory Council on the Virginia Business-Education Partnership Program

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9-326	2.2-2600 B-D
9-327	2.2-2601
9-328	2.2-2602 A
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9-329.3	2.2-2672
9-329.4	2.2-2673
9-329.5	2.2-2671 C
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9-338	30-183
9-339	30-182 E

Chapter 45 - Virginia Government Competition Act of 1995

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9-341	2.2-2620
9-342	2.2-2622
9-343	2.2-2621 A-E
9-344	2.2-2103 2.2-2622
9-345	2.2-2621 F 2.2-2622 B
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9-347	2.2-2624
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9-352	2.2-2425
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9-360	2.2-2248
9-361	2.2-2249
9-362	2.2-2250
9-363	2.2-2251
9-364	2.2-2252
9-365	2.2-2253
9-365.1	2.2-2254
9-366	2.2-2258
9-367	2.2-2255
9-368	2.2-2256
9-369	2.2-2259
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9-372	2.2-2441
9-373	2.2-2440
9-374	2.2-2443
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9-387	3.1-1113 A
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11-41	2.2-4303 2.2-4346
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11-41.02	2.2-4314
11-41.1	2.2-4305
11-41.2	2.2-4306
11-41.2:02	2.2-4307
11-41.2:2	2.2-4308
11-41.2:3	2.2-2404
11-41.2:4	2.2-2405
11-41.2:5	2.2-2406
11-41.4	Deleted
11-42	2.2-4319
11-43	2.2-4331
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11-44.1	2.2-4320
11-45	2.2-4309 2.2-4344 2.2-4345 2.2-4346
11-45.1	2.2-4322
11-46	2.2-4317
11-46.1	2.2-4321
11-46.3	2.2-4332
11-47	2.2-4324
11-47.01	2.2-4323
11-47.1	2.2-4325
11-47.2	2.2-4326
11-47.3	2.2-4327
11-47.4	2.2-4328
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11-62.2	2.2-4350 A
11-62.3	2.2-4350 B
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11-62.5	2.2-4355
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