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SUMMARY

Notice provisions; commercial delivery services. Provides that, in Titles 2.2 and 54.1, when service, delivery, or transmission of any notice or paper in any proceeding is authorized to be accomplished by mail, ordinary mail, registered mail, or certified mail, then service, delivery, or transmission by third-party commercial carrier is deemed to be authorized by such provision.

7 **SENATE BILL NO. _____ HOUSE BILL NO. _____**

8 A Bill to amend the Code of Virginia by adding in Article 1 of Chapter 6 of Title 2.2 a section
9 numbered 2.2-601.2 and by adding in Chapter 1 of Title 54.1 a section numbered 54.1-
10 101.2 relating to notice provisions; third-party commercial carrier.

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

12 **1. That the Code of Virginia is amended by adding in Article 1 of Chapter 6 of Title 2.2 a**
13 **section numbered 2.2-601.2 and by adding in Chapter 1 of Title 54.1 a section numbered**
14 **54.1-101.2 as follows:**

15 **§ 2.2-601.2. Delivery of notice by mail, ordinary mail, registered mail, or certified**
16 **mail.**

17 Where service, delivery, or transmission of any notice or paper is authorized or required
18 by any provision of this title to be accomplished by “mail,” “ordinary mail,” “registered mail,” or
19 “certified mail,” such provision shall be deemed to authorize such service, delivery, or
20 transmission by third-party commercial carrier. Any applicable requirements in other titles of
21 this Code or the Rules of the Supreme Court of Virginia for proof of such service, delivery, or
22 transmission shall remain in effect when a third-party commercial carrier is used.

23 **§ 54.1-101.2. Delivery of notice by mail, ordinary mail, registered mail, or certified**
24 **mail.**

25 Where service, delivery, or transmission of any notice or paper is authorized or required
26 by any provision of this title to be accomplished by “mail,” “ordinary mail,” “registered mail,” or
27 “certified mail,” such provision shall be deemed to authorize such service, delivery, or
28 transmission by third-party commercial carrier Any applicable requirements in other titles of this
29 Code or the Rules of the Supreme Court of Virginia for proof of such service, delivery, or
30 transmission shall remain in effect when a third-party commercial carrier is used.

15100296S

Stalker, Caroline

SUMMARY

Punitive or exemplary damages. Provides consistency by changing references to "exemplary damages" or "punitive or exemplary damages" to "punitive damages." The terms "exemplary" and "punitive" are interchangeable. The bill also makes technical corrections.

15100296D

Stalker, Caroline

SENATE BILL NO. _____ HOUSE BILL NO. _____

A BILL to amend and reenact §§ 8.01-40, 8.01-44.5, 8.01-622.1, 38.2-1501, 38.2-1603, 38.2-1701, 46.2-1527.5, 46.2-1527.10, 51.5-46, 54.1-1123, and 54.1-2116 of the Code of Virginia, relating to punitive damages.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-40, 8.01-44.5, 8.01-622.1, 38.2-1501, 38.2-1603, 38.2-1701, 46.2-1527.5, 46.2-1527.10, 51.5-46, 54.1-1123, and 54.1-2116 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-40. Unauthorized use of name or picture of any person; punitive damages; statute of limitations.

A. Any person whose name, portrait, or picture is used without having first obtained the written consent of such person, or if dead, of the surviving consort and if none, of the next of kin, or if a minor, the written consent of his or her parent or guardian, for advertising purposes or for the purposes of trade, such persons may maintain a suit in equity against the person, firm, or corporation so using such person's name, portrait, or picture to prevent and restrain the use thereof; and may also sue and recover damages for any injuries sustained by reason of such use. And if the defendant shall have knowingly used such person's name, portrait or picture in such manner as is forbidden or declared to be unlawful by this chapter, the jury, in its discretion, may award ~~exemplary punitive~~ damages.

B. No action shall be commenced under this section more than ~~twenty~~ 20 years after the death of such person.

§ 8.01-44.5. Punitive damages for persons injured by intoxicated drivers.

In any action for personal injury or death arising from the operation of a motor vehicle, engine or train, the finder of fact may, in its discretion, award ~~exemplary~~ punitive damages to the plaintiff if the evidence proves that the defendant acted with malice toward the plaintiff or the defendant's conduct was so willful or wanton as to show a conscious disregard for the rights of others.

A defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (i) when the incident causing the injury or death occurred, the defendant had a blood alcohol concentration of 0.15 percent or more by weight by volume or 0.15 grams or more per 210 liters of breath; (ii) at the time the defendant began drinking alcohol, or during the time he was drinking alcohol, he knew or should have known that his ability to operate a motor vehicle, engine or train would be impaired, or when he was operating a motor vehicle he knew or should have known that his ability to operate a motor vehicle was impaired; and (iii) the defendant's intoxication was a proximate cause of the injury to or death of the plaintiff. For the purposes of clause (i), it shall be rebuttably presumed that the blood alcohol concentration at the time of the incident causing injury or death was at least as high as the test result as shown in a certificate issued pursuant to § 18.2-268.9 or in a certificate of analysis for a blood test administered pursuant to § 18.2-268.7, provided that the test was administered within three hours of the incident causing injury or death. In addition to any other forms of proof, a party may submit a copy of a certificate issued pursuant to § 18.2-268.9 or a certificate of analysis for a blood test administered pursuant to § 18.2-268.7, which shall be prima facie evidence of the facts contained therein.

However, when a defendant has unreasonably refused to submit to a test of his blood alcohol content as required by § 18.2-268.2, a defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (a) when the incident causing the injury or death occurred

the defendant was intoxicated, which may be established by evidence concerning the conduct or condition of the defendant; (b) at the time the defendant began drinking alcohol, or during the time he was drinking alcohol, he knew or should have known that his ability to operate a motor vehicle was impaired; and (c) the defendant's intoxication was a proximate cause of the injury to the plaintiff or death of the plaintiff's decedent. In addition to any other forms of proof, a party may submit a certified copy of a court's determination of unreasonable refusal pursuant to § 18.2-268.3, which shall be prima facie evidence that the defendant unreasonably refused to submit to the test.

§ 8.01-622.1. Injunction against assisted suicide; damages; professional sanctions.

A. Any person who knowingly and intentionally, with the purpose of assisting another person to commit or attempt to commit suicide, (i) provides the physical means by which another person commits or attempts to commit suicide or (ii) participates in a physical act by which another person commits or attempts to commit suicide shall be liable for damages as provided in this section and may be enjoined from such acts.

B. A cause of action for injunctive relief against any person who is reasonably expected to assist or attempt to assist a suicide may be maintained by any person who is the spouse, parent, child, sibling or guardian of, or a current or former licensed health care provider of, the person who would commit suicide; by ~~a Commonwealth's~~ an attorney for the Commonwealth with appropriate jurisdiction; or by the Attorney General. The injunction shall prevent the person from assisting any suicide in the Commonwealth.

C. A spouse, parent, child or sibling of a person who commits or attempts to commit suicide may recover compensatory and ~~exemplary punitive~~ damages in a civil action from any person who provided the physical means for the suicide or attempted suicide or who participated in a physical act by which the other person committed or attempted to commit suicide.

D. A licensed health care provider who assists or attempts to assist a suicide shall be considered to have engaged in unprofessional conduct for which his certificate or license to provide health care services in the Commonwealth shall be suspended or revoked by the licensing authority.

E. Nothing in this section shall be construed to limit or conflict with § 54.1-2971.01 or the Health Care Decisions Act (§ 54.1-2981 et seq.). This section shall not apply to a licensed health care provider who (i) administers, prescribes or dispenses medications or procedures to relieve another person's pain or discomfort and without intent to cause death, even if the medication or procedure may hasten or increase the risk of death, or (ii) withholds or withdraws life-prolonging procedures as defined in § 54.1-2982. This section shall not apply to any person who properly administers a legally prescribed medication without intent to cause death, even if the medication may hasten or increase the risk of death.

F. For purposes of this section:

"Licensed health care provider" means a physician, surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, nurse, dentist or pharmacist licensed under the laws of this Commonwealth.

"Suicide" means the act or instance of taking one's own life voluntarily and intentionally.

§ 38.2-1501. Definitions.

As used in this chapter:

"Actual direct compensatory damages" does not include punitive ~~or exemplary~~ damages, damages for lost profit or lost opportunity, or damages for pain and suffering, but does include normal and reasonable costs of cover or other reasonable measures of damages utilized in the derivatives, securities, or other market for the contract and agreement claims.

"Association" means the Virginia Property and Casualty Insurance Guaranty Association created by Chapter 16 ~~of this title~~ (§ 38.2-1600 et seq.) or the Virginia Life, Accident and Sickness Insurance Guaranty Association created by Chapter 17 ~~of this title~~ (§ 38.2-1700 et seq.) or any person performing a similar function in another state.

"Commodity contract" means:

1. A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade or contract market under the Commodity Exchange Act (7 U.S.C. § 1 et seq.) or a board of trade outside the United States;
2. An agreement that is subject to regulation under § 19 of the Commodity Exchange Act (7 U.S.C. § 1 et seq.) and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;
3. An agreement or transaction that is subject to regulation under § 4c(b) of the Commodity Exchange Act (7 U.S.C. § 1 et seq.) and that is commonly known to the commodities trade as a commodity option;
4. Any combination of the agreements or transactions referred to in this definition; or
5. Any option to enter into an agreement or transaction referred to in this definition.

"Contractual right" as used in § 38.2-1522 includes any right set forth in a rule or bylaw of a derivatives clearing organization as defined in the Commodity Exchange Act, a multilateral clearing organization as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991, a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodities Exchange Act, or a board of trade as defined in the Commodity Exchange Act, or in a resolution of the governing board thereof and any right, whether or

not evidenced in writing, arising under statutory or common law, under law merchant, or by reason of normal business practice.

"Delinquency proceeding" means any proceeding commenced against an insurance company for the purpose of liquidating, rehabilitating, reorganizing, or conserving an insurer.

"Forward contract," "repurchase agreement," "securities contract," and "swap agreement" have the meanings set forth with respect thereto in 12 U.S.C. § 1821(e)(8)(D), as amended.

"Insolvent" means (i) the condition of an insurer that has liabilities in excess of assets or (ii) the inability of an insurer to pay its obligations as they become due in the usual course of business.

"Netting agreement" means:

1. A contract or agreement, including terms and conditions incorporated by reference in it, including a master agreement, which master agreement, together with all schedules, confirmations, definitions, and addenda to it and transactions under any of them, shall be treated as one netting agreement, that documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting, liquidation, setoff, termination, acceleration, or close-out, under or in connection with one or more qualified financial contracts or present or future payment or delivery obligations or payment or delivery entitlements under it, including liquidation or close-out values relating to those obligations or entitlements, among the parties to the netting agreement;

2. Any master agreement or bridge agreement for one or more master agreements described in subdivision 1 of this definition; or

3. Any security agreement or arrangement or other credit enhancement or guarantee or reimbursement obligation related to any contract or agreement described in subdivision 1 or 2 of this definition, provided that any contract or agreement described in

subdivision 1 or 2 of this definition relating to agreements or transactions that are not qualified financial contracts shall be deemed to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts.

"Qualified financial contract" means any commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, or any similar agreement that the Commission determines to be a qualified financial contract for the purposes of this chapter.

"Receiver" means the Commission or any person appointed to manage delinquency proceedings.

§ 38.2-1603. Definitions.

As used in this chapter:

"Account" means any one of the three accounts created by § 38.2-1604.

"Affiliate" means a person who directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.

"Association" means the Virginia Property and Casualty Insurance Guaranty Association created under § 38.2-1604.

"Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds

proxies representing, ~~ten~~ 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact.

"Covered claim" means an unpaid claim, including one for unearned premiums, submitted by a claimant, that (i) arises out of and is within the coverage and is subject to the applicable limits of a policy covered by this chapter and issued by an insurer who has been declared to be an insolvent insurer or (ii) arises out of and is within the coverage and is subject to the applicable limits of a policy that would not be excluded from the coverage of this chapter under the provisions of § 38.2-1601 if it were a policy of direct insurance and that has been assumed as a direct obligation by an insurer who has been declared to be an insolvent insurer, where such obligation is assumed through a merger or acquisition, or pursuant to an acquisition of assets and assumption of liabilities, an assumption under the provisions of subsection B or C of § 38.2-136 or a substantially similar law of another jurisdiction, or any other novation agreement. The claimant or insured shall be a resident of the Commonwealth at the time of the insured loss, provided that for entities other than an individual, the residence of a claimant or insured is the state in which its principal place of business is located at the time of the insured loss or the property from which the claim arises shall be permanently located in the Commonwealth.

"Covered claim" shall not include any amount awarded as punitive ~~or exemplary~~ damages or sought as a return of premium under any retrospective rating plan; any amount due any reinsurer, insurer, insurance pool, or underwriting association as subrogation recoveries, reinsurance recoveries, contribution, indemnification, or otherwise; any amount due under any policy originally issued by a surplus lines carrier or risk retention group; any obligation assumed by an insolvent insurer after the commencement of any delinquency proceeding, as defined in Chapter 15 (§ 38.2-1500 et seq.) ~~of this title~~, involving the insolvent insurer or the original insurer, unless it would have been a "covered claim" absent such assumption; or any obligation assumed by an insolvent insurer in a transaction in which the original insurer remains separately liable.

An obligation owing under a contract of reinsurance shall not be deemed a direct obligation for the purposes of this definition unless it shall have been assumed pursuant to the provisions of subsection B or C of § 38.2-136 or a substantially similar law of another jurisdiction. No claim for any amount due any reinsurer, insurer, insurance pool, or underwriting association may be asserted against a person insured under a policy issued by an insolvent insurer other than to the extent the claim exceeds the association obligation limitations set forth in § 38.2-1606.

"Insolvent insurer" means an insurer that is (i) licensed to transact the business of insurance in the Commonwealth either at the time the policy was issued, when the obligation with respect to the covered claim was assumed, or when the insured loss occurred and (ii) against whom an order of liquidation with a finding of insolvency has been entered after July 1, 1987, by a court of competent jurisdiction in the insurer's state of domicile or of the Commonwealth under the provisions of Chapter 15 (§ 38.2-1500 et seq.) ~~of this title~~, and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.

"Member insurer" means any person who (i) writes any class of insurance to which this chapter applies under § 38.2-1601, including reciprocal insurance contracts, and (ii) is licensed to transact the business of insurance in the Commonwealth but shall not include persons listed in subdivision 9 of § 38.2-1601.

"Net direct written premiums" means direct gross premiums written in the Commonwealth on insurance policies applicable to this chapter, less return premiums and dividends paid or credited to policyholders on direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

§ 38.2-1701. Definitions.

As used in this chapter:

"Account" means any one of the two accounts created under § 38.2-1702.

"Association" means the Virginia Life, Accident and Sickness Insurance Guaranty Association created under § 38.2-1702.

"Authorized assessment" or the term "authorized" when used in the context of assessments means that a resolution by the board of directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

"Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

"Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the Association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the Association to member insurers.

"Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or portion thereof for which coverage is provided under § 38.2-1700.

"Covered policy" means a policy or contract or portion of a policy or contract for which coverage is provided under § 38.2-1700.

"Extra-contractual claims" shall include, for example, claims relating to bad faith in the payment of claims, punitive ~~or exemplary~~ damages, or attorney fees and costs.

"Impaired insurer" means a member insurer considered by the Commission to be potentially unable to fulfill its contractual obligations.

"Insolvent insurer" means a member insurer that is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

"Member insurer" means an insurer licensed to transact in this Commonwealth any class of insurance to which this chapter applies under § 38.2-1700, including an insurer whose license to transact the business of insurance in the Commonwealth has

been suspended, revoked, not renewed or voluntarily withdrawn, but does not include cooperative nonprofit life benefit companies, health maintenance organizations, mutual assessment life, accident and sickness insurance companies, burial societies, fraternal benefit societies, dental and optometric services plans, and health services plans not subject to this chapter pursuant to § 38.2-4213.

"Moody's Corporate Bond Yield Average" means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto.

"Owner" of a policy or contract or "policy owner" and "contract owner" means the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the insurer. The terms "owner," "contract owner," and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

"Plan sponsor" means: (i) the employer, in the case of a benefit plan established or maintained by a single employer; (ii) the employee organization in the case of a benefit plan established or maintained by an employee organization; or (iii) in the case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

"Premiums" means amounts or considerations, by whatever name called, received on covered policies or contracts, less any returned premiums, considerations, and deposits and less dividends and experience credits. "Premiums" does not include amounts or considerations received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under subsection C of § 38.2-1700 except that assessable premium shall not be reduced on account of subdivision C 2 of § 38.2-

1700 relating to interest limitations and ~~subsection~~ subdivision D 2 of § 38.2-1700 relating to limitations with respect to one individual, one participant, and one contract owner. "Premiums" shall not include (i) premiums for coverage in excess of \$5 million on an unallocated annuity contract covered under subdivision D 2 d of § 38.2-1700 or (ii) with respect to multiple nongroup policies of life insurance owned by one owner, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees or other persons, premiums for coverage in excess of \$5 million with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

"Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function, determined by the Association in its reasonable judgment by considering the following factors: (i) the state in which the primary executive and administrative headquarters of the entity is located; (ii) the state in which the principal office of the chief executive officer of the entity is located; (iii) the state in which the board of directors (or similar governing person or persons) of the entity conducts the majority of its meetings; (iv) the state from which the management of the overall operations of the entity is directed; and in the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using these factors. However, in the case of a plan sponsor, if more than 50 percent of the participants in the benefit plan are employed in a single state, that state shall be deemed to be the principal place of business of the plan sponsor. The principal place of business of a plan sponsor described in clause (iii) of the definition of plan sponsor in this section shall be deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or

maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

"Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer.

"Resident" means a person to whom a contractual obligation is owed and who resides in the Commonwealth on the date a member insurer becomes an impaired insurer or a court order is entered that determines a member insurer to be an insolvent insurer. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business. Citizens of the United States that are either (i) residents of foreign countries, or (ii) residents of United States possessions, territories, or protectorates that do not have an association similar to the Association, shall be deemed residents of the state of domicile of the insurer that issued the policies or contracts.

"Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury or sickness suffered by the plaintiff or other claimant.

"Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

"Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and owned by an individual or a trust created by an individual for the benefit of one or more individuals, except to the extent of any annuity benefits guaranteed to an individual or such a trust by an insurer under the contract or certificate.

§ 46.2-1527.5. Limitations on recovery from Fund.

The maximum claim of one judgment creditor against the Fund based on an unpaid final judgment arising out of any loss or damage by reason of a claim submitted

under § 46.2-1527.2 or 46.2-1527.3 involving a single transaction shall be limited to \$25,000, including any amount paid from the dealer's surety bond, regardless of the amount of the unpaid final judgment of one judgment creditor. Effective January 1, 2013, and on January 1 of each year thereafter, the amount that may be awarded to any person as a result of loss or damage to that person as provided in this section shall be increased by the percentage increase over the most recently available unadjusted 12-month period in the Consumer Price Index for used cars and trucks, as published by the U.S. Bureau of Labor Statistics or any successor index. In the event that this index decreases over any such 12-month period, there shall be no change in the amount which may be awarded.

The aggregate of claims against the Fund based on unpaid final judgments arising out of any loss or damage by reason of a claim submitted under § 46.2-1527.3 involving more than one transaction shall be limited to four times the amount that may be awarded to a single judgment creditor, regardless of the total amounts of the unpaid final judgments of judgment creditors.

However, aggregate claims against the Fund under § 46.2-1527.2 shall be limited to the amount that may be paid out of the Fund under the preceding paragraph less the amount of the dealer's bond and then only after the dealer's bond has been exhausted.

If a claim has been made against the Fund, and the Board has reason to believe that there may be additional claims against the Fund from other transactions involving the same licensee or registrant, the Board may withhold any payment from the Fund involving the licensee or registrant for a period not to exceed the end of the relevant license or registration period. After this period, if the aggregate of claims against the licensee or registrant exceeds the aggregate amount that may be paid from the Fund under this section, then such amount shall be prorated among the claimants and paid from the Fund in proportion to the amounts of their unpaid final judgments against the licensee or registrant.

However, claims against motor vehicle dealers and salespersons participating in the Motor Vehicle Transaction Recovery Fund pursuant to § 46.2-1527.2 shall be prorated when the aggregate exceeds \$50,000. Claims shall be prorated only after the dealer's \$50,000 bond has been exhausted.

On receipt of a verified claim filed against the Fund, the Board shall forthwith notify the licensee or registrant who is the subject of the unpaid judgment that a verified claim has been filed and that the licensee or registrant should satisfy the judgment debt. If the judgment debt is not fully satisfied 30 days following the date of the notification by the Board, the Board shall make payment from the Fund subject to the other limitations contained in this article.

Excluded from the amount of any unpaid final judgment on which a claim against the Fund is based shall be any sums representing ~~(i) interest, (ii) and~~ punitive damages, ~~and (iii) exemplary damages~~. Awards from the Fund shall be limited to reimbursement of costs paid to the dealer for all charges related to the vehicle including without limitation, the sales price, taxes, insurance, and repairs; other out of pocket costs related to the purchase, insuring and registration of the vehicle, and to the loss of use of the vehicle by the purchaser.

If at any time the Fund is insufficient to fully satisfy any claims or claim filed with the Board and authorized by this article, the Board shall pay such claims, claim, or portion thereof to the claimants in the order that the claims were filed with the Board. However, claims by retail purchasers shall take precedence over other claims.

§ 46.2-1527.10. Recovery on bond.

With respect to a motor vehicle dealer electing continuous bonding under § 46.2-1527.9, whenever any person is awarded a final ~~judgement~~ judgment in a court of competent jurisdiction in the Commonwealth against the dealer for (i) any loss or damage in connection with the purchase or lease of a motor vehicle by reason of fraud practiced on him or fraudulent representation made to him by the dealer or one of the dealer's

salespersons acting within the scope of his employment, (ii) any loss or damage by reason of the violation by the dealer or salesperson of any provision of this chapter in connection with the purchase or lease of a motor vehicle, or (iii) any loss or damage resulting from a breach of an extended service contract, as defined in § 59.1-435, entered into on or after July 1, 2003, the ~~judgement~~ judgment creditor shall have a claim against the dealer bond for such damages as may be awarded such person in final ~~judgement~~ judgment and unpaid by the dealer, and may recover such unpaid damages up to but not exceeding the maximum liability of the surety as set forth in § 46.2-1527.9 from the surety who shall be subrogated to the rights of such person against the dealer or salesperson. The liability of such surety shall be limited to actual damages and ~~attorneys'~~ attorney fees assessed against the dealer or salesperson as part of the underlying ~~judgement~~ judgment but this section does not authorize the award of ~~attorneys'~~ attorney fees in the underlying ~~judgement~~ judgment. The liability of such surety shall not include any sums representing interest or punitive ~~or exemplary~~ damages assessed against the dealer or salesperson.

The dealer's surety shall notify the Board when a claim is made against a dealer's bond, when a claim is paid, and when the bond is cancelled. Such notification shall include the amount of claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation. The bond may be cancelled as to future liability by the dealer's surety upon 30 days' notice to the Board.

§ 51.5-46. Remedies.

A. Any circuit court having jurisdiction and venue pursuant to Title 8.01, on the petition of any person with a disability, shall have the right to enjoin the abridgement of rights set forth in this chapter and to order such affirmative equitable relief as is appropriate and to award compensatory damages and to award to a prevailing party reasonable ~~attorneys'~~ attorney fees, except that a defendant shall not be entitled to an award of ~~attorneys'~~ attorney fees unless the court finds that the claim was frivolous,

unreasonable or groundless, or brought in bad faith. Compensatory damages shall not include damages for pain and suffering. Punitive ~~or exemplary~~ damages shall not be awarded.

B. An action may be commenced pursuant to this section any time within one year of the occurrence of any violation of rights under this chapter. However, such action shall be forever barred unless such claimant or his agent, attorney or representative has commenced such action or has filed by registered mail a written statement of the nature of the claim with the potential defendant or defendants within 180 days of the occurrence of the alleged violation. Any liability for back pay shall not accrue from a date more than 180 days prior to the filing of the notice or the initial pleading in such civil action and shall be limited to a total of 180 days, reduced by the amount of other earnings over the same period. The petitioner shall have a duty to mitigate damages.

C. The relief available for violations of this chapter shall be limited to the relief set forth in this section.

§ 54.1-1123. Limitations upon recovery from Fund; certain actions not a bar to recovery.

A. The maximum claim of one claimant against the Fund based upon an unpaid judgment arising out of the improper or dishonest conduct of one regulant in connection with a single transaction involving contracting, is limited to \$20,000, regardless of the amount of the unpaid judgment of the claimant.

B. The aggregate of claims against the Fund based upon unpaid judgments arising out of the improper or dishonest conduct of any one regulant involving contracting, is limited by the Board to \$40,000 during any biennium. If a claim has been made against the Fund, and the Board has reason to believe there may be additional claims against the Fund from other transactions involving the same regulant, the Board may withhold any payment(s) from the Fund involving such regulant for a period of not more than one year from the date on which the claimant is awarded in a court of competent jurisdiction in the

Commonwealth the final judgment on which his claim against the Fund is based. After this one-year period, if the aggregate of claims against the regulant exceeds \$40,000, during a biennium, \$40,000 shall be prorated by the Board among the claimants and paid from the Fund in proportion to the amounts of their judgments against the regulant remaining unpaid.

C. Excluded from the amount of any unpaid judgment upon which a claim against the Fund is based shall be any sums representing interest, or punitive ~~or exemplary~~ damages, or any amounts that do not constitute actual monetary loss to the claimants. Such claim against the Fund may include court costs and ~~attorneys'~~ attorney fees.

D. If, at any time, the amount of the Fund is insufficient to fully satisfy any claims or claim filed with the Board and authorized by this Act, the Board shall pay such claims, claim, or portion thereof to the claimants in the order that the claims were filed with the Board.

E. Failure of a claimant to comply with the provisions of subdivisions A 1 and A 2 and subsection B of § 54.1-1120 and the provisions of § 54.1-1124 shall not be a bar to recovery under this Act if the claimant is otherwise entitled to such recovery.

F. The Board shall have the authority to deny any claim which otherwise appears to meet the requirements of the Act if it finds by clear and convincing evidence that the claimant has presented false information or engaged in collusion to circumvent any of the requirements of the Act.

§ 54.1-2116. Limitations upon recovery from fund; certain actions not a bar to recovery.

A. The aggregate of claims by claimants against the fund based upon unpaid judgments arising out of the improper or dishonest conduct of one regulant in connection with a single transaction involving the sale, lease, or management of real property, is limited to \$50,000. If a claim has been made against the fund, and the Board has reason to believe that there may be additional claims against the fund arising out of the same

transaction, the Board may withhold any payment(s) from the fund for a period of not more than one year. After such one-year period, if the aggregate of claims arising out of the same transaction exceeds \$50,000, such \$50,000 shall be prorated by the Board among the claimants and paid from the fund in proportion to the amounts of their judgments against the regulant remaining unpaid.

B. The maximum claim of one claimant against the fund based upon an unpaid judgment arising out of the improper or dishonest conduct of one regulant in connection with a single transaction involving the sale, lease, or management of real property, shall be limited to \$20,000, regardless of the number of claimants and regardless of the amount of the unpaid judgment of the claimant.

C. The aggregate of claims against the fund based upon unpaid judgments arising out of the improper or dishonest conduct of one regulant in connection with more than a single transaction involving the sale, lease, or management of real property is limited to \$100,000 during any biennial license period, the biennial periods expiring on June 30 of each even-numbered year. If a claim has been made against the fund, and the Board has reason to believe that there may be additional claims against the fund from other transactions involving the same regulant, the Board may withhold any payment(s) from the fund involving such regulant for a period of not more than one year. After the one-year period, if the aggregate of claims against the regulant exceeds \$100,000, such \$100,000 shall be prorated by the Board among the claimants and paid from the fund in proportion to the amounts of their judgments against the regulant remaining unpaid.

D. Excluded from the amount of any unpaid judgment upon which a claim against the fund is based shall be any sums included in the judgment which represent interest, or punitive ~~or exemplary~~ damages. The claim against the fund may include court costs and ~~attorneys'~~ attorney fees.

E. If, at any time, the amount of the fund is insufficient to satisfy any claims, claim, or portion thereof filed with the Board and authorized by the act, the Board shall,

when the amount of the fund is sufficient to satisfy some or all of such claims, claim, or portion thereof, pay the claimants in the order that such claims were filed with the Board.

F. Failure of a claimant to comply with the provisions of subdivisions A 1 and 2 ~~of subsection A~~ of § 54.1-2114 and the provisions of § 54.1-2117 shall not be a bar to recovery under this act if the claimant is otherwise entitled to such recovery.

#

SUMMARY

Revision of Title 33. Corrects typographical errors and other mistakes from the revision and recodification of Title 33. The bill also reinserts language that was omitted from Chapter 805 of the Acts of Assembly of 2014 and provides that the reinsertion is effective retroactively to October 1, 2014. The bill implements clarifying changes and other changes made in the revision and recodification of Title 33.2. This bill is a recommendation of the Virginia Code Commission.

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 33.2-100, 33.2-321,33.2-501, 33.2-601, 33.2-612, 33.2-613, 33.2-
2 1024, 33.2-1025, 33.2-1027, 33.2-1230, 33.2-1509, 33.2-1726, 33.2-1915, 33.2-1929, 33.2-2103,
3 33.2-2205, 33.2-2216, 33.2-2300, 33.2-2915, 33.2-2916, 56-366.1, and 56-468.2 of the Code of
4 Virginia; to amend the Code of Virginia by adding in Title 33.2 a section numbered 33.2-117;
5 and to repeal §§ 33.2-2217, and 56-355.1 of the Code of Virginia, relating to transportation.

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

7 **1. That §§ 33.2-100, 33.2-321, 33.2-501, 33.2-601, 33.2-612, 33.2-613, 33.2-1024, 33.2-1025, 33.2-**
8 **1027, 33.2-1230, 33.2-1509, 33.2-1726, 33.2-1915, 33.2-1929, 33.2-2103, 33.2-2205, 33.2-2216, 33.2-**
9 **2300, 33.2-2915, 33.2-2916, 56-366.1, and 56-468.2 of the Code of Virginia are amended and**
10 **reenacted, as follows:**

11 **§ 33.2-100. Definitions.**

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

13 "Asset management" means a systematic process of operating and maintaining the systems of
14 state highways by combining engineering practices and analysis with sound business practices and
15 economic theory to achieve cost-effective outcomes.

16 "Board" means the Commonwealth Transportation Board.

17 "City" has the meaning assigned to it in § 1-208.

18 "Commissioner" or "Commissioner of Highways" means the individual who serves as the chief
19 executive officer of the Department of Transportation.

20 "Department" means the Department of Transportation.

21 "Federal-aid systems" are the Interstate System and the National Highway System as set forth in
22 23 U.S.C. § 103.

23 "Highway" means the entire width between the boundary lines of every way or place open to the
24 use of the public for purposes of vehicular travel in the Commonwealth.

25 "Highway purpose," "highway project," or "highway construction" means highway, passenger
26 and freight rail, or public transportation purposes.

27 | "Interstate highway" means any highway in or component of the Interstate System.

28 "Interstate System" means the same as that term is defined in 23 U.S.C. § 103(c). The "Interstate
29 System" also includes highways or highway segments in the Commonwealth that constitute a part of the
30 Dwight D. Eisenhower National System of Interstate and Defense Highways as authorized and
31 designated in accordance with § 7 of the Federal-Aid Highway Act of 1944 and § 108(a) of the Federal-
32 Aid Highway Act of 1956 and are declared by resolution of the Commonwealth Transportation Board to
33 be portions of the Interstate System.

34 "Locality" has the meaning assigned to it in § 1-221.

35 "Maintenance" means (i) ordinary maintenance; (ii) maintenance replacement; (iii) operations
36 that include traffic signal synchronization, incident management, and other intelligent transportation
37 system functions; and (iv) any other categories of maintenance that may be designated by the
38 Commissioner of Highways.

39 "Municipality" has the meaning assigned to it in § 1-224.

40 "National Highway System" means the same as that term is defined in 23 U.S.C. § 103(b).

41 "Primary highway" means any highway in or component of the primary state highway system.

42 "Primary state highway system" consists of all highways and bridges under the jurisdiction and
43 control of the Commonwealth Transportation Board and the Commissioner of Highways and not in the
44 secondary state highway system.

45 "Public transportation" or "mass transit" means passenger transportation by rubber-tired, rail, or
46 other surface conveyance that provides shared ride services open to the general public on a regular and
47 continuing basis. "Public transportation" or "mass transit" does not include school buses, charter or
48 sight-seeing services, vehicular ferry service that serves as a link in the highway network, or human
49 service agency or other client-restricted transportation.

50 "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular
51 travel. A highway may include two or more roadways if divided by a physical barrier or barriers or
52 unpaved areas.

53 "Secondary highway" means any highway in or component of the secondary state highway
54 system.

55 "Secondary state highway system" consists of all public highways, causeways, bridges, landings,
56 and wharves in the counties of the Commonwealth not included in the primary state highway system and
57 that have been accepted by the Department of Transportation for supervision and maintenance.

58 "Secretary" means the Secretary of Transportation.

59 "Systems of state highways" has the meaning assigned to it in § 1-251.

60 "Urban highway system" consists of those public highways, or portions thereof, not included in
61 the systems of state highways, to which the Commonwealth Transportation Board directs payments
62 pursuant to § 33.2-319.

63 § 33.2-117. Statutes declaring streams and rivers to be highways continued.

64 All statutes heretofore enacted declaring certain streams and rivers to be highways and providing
65 for removing obstructions therefrom and from other streams shall continue in force.

66 **§ 33.2-321. Agreements between Commonwealth Transportation Board and certain**
67 **counties for operation of certain devices on state highways.**

68 The Commissioner of Highways is empowered to enter into agreements with the governing
69 bodies of ~~Arlington and Henrico Counties~~ counties that have withdrawn or elect to withdraw from the
70 secondary state highway system pursuant to § 11 of Chapter 415 of the Acts of Assembly of 1932, upon
71 such terms as may be agreeable between the parties, in order to authorize such counties to install,
72 maintain, and control traffic signals, parking meters, lane-use control signals, and other traffic control
73 devices at specific locations on the primary or secondary state highway system within such counties.
74 Such counties and the Commissioner of Highways shall have the authority to do all things reasonable or
75 convenient to effectuate the purposes of this section.

76 **§ 33.2-501. Designation of HOV lanes; use of such lanes; penalties.**

77 A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during
78 peak traffic periods, the Board may designate one or more lanes of any highway in the Interstate System,
79 primary state highway system, or secondary state highway system as HOV lanes. When lanes have been

80 so designated and have been appropriately marked with signs or other markers as the Board may
81 prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses
82 and high-occupancy vehicles. Any local governing body may also, with respect to highways under its
83 exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such
84 lanes. Any highway for which the locality receives highway maintenance funds pursuant to § 33.2-319
85 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of
86 this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of
87 occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that
88 local governing body. ~~Notwithstanding the foregoing provisions of this section~~ However, no designation
89 of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

- 90 1. Emergency vehicles such as firefighting vehicles, ambulances, and rescue squad vehicles;
- 91 2. Law-enforcement vehicles;
- 92 3. Motorcycles;
- 93 4. a. Transit and commuter buses designed to transport 16 or more passengers, including the
94 driver;
- 95 b. Any vehicle operating under a certificate issued under § 46.2-2075, 46.2-2080, 46.2-2096,
96 46.2-2099.4, or 46.2-2099.44;
- 97 5. Vehicles of public utility companies operating in response to an emergency call;
- 98 6. Vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-749.3,
99 provided such use is in compliance with federal law;
- 100 7. Taxicabs having two or more occupants, including the driver; or
- 101 8. (Contingent effective date) Any active duty military member in uniform who is utilizing
102 Interstate 264 and Interstate 64 for the purposes of traveling to or from a military facility in the Hampton
103 Roads Planning District.

104 In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV
105 lanes opened to use by all vehicles when restricting use of HOV lanes becomes impossible or

106 undesirable and the temporary lifting of HOV limitations is indicated by signs along or above the
107 affected portion of highway.

108 The Commissioner of Highways shall implement a program of the HOV facilities in the
109 Hampton Roads Planning District beginning not later than May 1, 2000. This program shall include the
110 temporary lifting of HOV restrictions and the opening of HOV lanes to all traffic when an incident
111 resulting from nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked
112 or is expected to be blocked for 10 minutes or longer. The HOV restrictions for the facility shall be
113 reinstated when the general lane is no longer blocked and is available for use.

114 The Commissioner of Highways shall maintain necessary records to evaluate the effects of such
115 openings on the operation of the general lanes and the HOV lanes. This program will terminate if the
116 Federal Highway Administration requires repayment of any federal highway construction funds because
117 of the program's impact on the HOV facilities in Hampton Roads.

118 B. In designating any lane or lanes of any highway as HOV lanes, the Board or local governing
119 body shall specify the hour or hours of each day of the week during which the lanes shall be so reserved,
120 and the hour or hours shall be plainly posted at whatever intervals along the lanes the Board or local
121 governing body deems appropriate. Any person driving a motor vehicle in a designated HOV lane in
122 violation of this section is guilty of a traffic infraction, which shall not be a moving violation, and on
123 conviction shall be fined \$100. However, violations committed within the boundaries of Planning
124 District 8 shall be punishable as follows:

- 125 1. For a first offense, by a fine of \$125;
- 126 2. For a second offense within a period of five years from a first offense, by a fine of \$250;
- 127 3. For a third offense within a period of five years from a first offense, by a fine of \$500; and
- 128 4. For a fourth or subsequent offense within a period of five years from a first offense, by a fine
129 of \$1,000.

130 Upon a conviction under this section, the court shall furnish to the Commissioner of the
131 Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such
132 conviction, which shall become a part of the person's driving record. Notwithstanding the provisions of

133 § 46.2-492, no driver demerit points shall be assessed for any violation of this section, except that
134 persons convicted of second, third, fourth, or subsequent violations within five years of a first offense
135 committed in Planning District 8 shall be assessed three demerit points for each such violation.

136 C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of
137 failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy
138 vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of
139 this section, together with proof that the defendant was at the time of such violation the registered owner
140 of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the
141 vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered
142 owner of the vehicle testifies in open court under oath that he was not the operator of the vehicle at the
143 time of the violation. A summons for a violation of this section may be executed in accordance with §
144 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of the vehicle is a
145 rental or leasing company.

146 D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this
147 section is served in any locality, it may be executed by mailing by first-class mail a copy thereof to the
148 address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the
149 summoned person fails to appear on the date of return set out in the summons mailed pursuant to this
150 section, the summons shall be executed in the manner set out in § 19.2-76.3.

151 No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for
152 his failure to appear on the return date of the summons.

153 E. Notwithstanding § 33.2-613, high-occupancy vehicles having three or more occupants (HOV-
154 3) may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without
155 paying a toll.

156 F. Notwithstanding the contrary provisions of this section, the following conditions shall be met
157 before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to
158 HOV-3 or any more restrictive designation:

159 1. The Department of Transportation shall publish a notice of its intent to change the existing
160 designation and also immediately provide similar notice of its intent to all members of the General
161 Assembly representing districts that touch or are directly impacted by traffic on Interstate Route 66.

162 2. The Department of Transportation shall hold public hearings in the corridor to receive
163 comments from the public.

164 3. The Department of Transportation shall make a finding of the need for a change in such
165 designation, based on public hearings and its internal data, and present this finding to the Board for
166 approval.

167 4. The Board shall make written findings and a decision based upon the following criteria:

168 a. Is changing the HOV-2 designation to HOV-3 in the public interest?

169 b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will
170 facilitate the flow of traffic on Interstate Route 66?

171 c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act
172 Amendments of 1990?

173 **§ 33.2-601. Ferry across Corrotoman River.**

174 The public free ferry across the Corrotoman River, in the County of Lancaster, authorized by ~~the~~
175 ~~act of March 12, 1847~~ Chapter 156 of the Acts of Assembly of 1847, shall be kept according to such act,
176 except as otherwise provided in this section. The Circuit Court of Lancaster may have the contract for
177 keeping the same let to the lowest bidder for a period of five years, and the bonds thereby directed shall
178 be to the County of Lancaster. Furthermore, the ferry shall cross from Merry Point to the upper side of
179 the wharf and canning factory at Ottoman wharf. However, the circuit court of the county shall have the
180 right, upon the application of the board of supervisors, to discontinue the ferry if it appears that public
181 necessity therefor no longer exists. No such application shall be made unless and until notice is given by
182 (i) publication once a week for two successive weeks in a newspaper published in the county or having
183 general circulation therein and (ii) posting copies of the notice at the front door of the courthouse of the
184 county and at both landings of the ferry. Such notice shall be posted and the first newspaper publication
185 made at least 30 days before the day on which the application will be made to the court.

186 **§ 33.2-612. Unlawful for Department of Transportation to permit free passage over certain**
187 **toll bridges and ferries; exceptions.**

188 Except for those persons exempted from tolls under § 33.2-613, it shall be unlawful for the
189 Department or any employee thereof to give or permit free passage over any toll bridge, tunnel, or ferry
190 that has been secured through the issuance of revenue bonds and which bonds are payable from the
191 revenues of such project. Every vehicle shall pay the same toll as others similarly situated. Except as
192 provided in § 33.2-613, the provisions ~~hereof of this section~~ shall apply to vehicles and employees of the
193 state government, local governments, or other political subdivisions and to vehicles and persons of all
194 other categories and descriptions, public, private, eleemosynary, or otherwise.

195 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

196 A. ~~Vehicles transporting two or more persons, including the driver, may be permitted toll-free~~
197 ~~use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of~~
198 ~~subdivision B 1 of § 56-543 said vehicles shall not be permitted toll-free use of a roadway as defined~~
199 ~~pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).~~ Upon presentation of a
200 toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll
201 bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while
202 in the performance of their official duties:

- 203 1. The Commissioner of Highways;
- 204 2. Members of the Commonwealth Transportation Board;
- 205 3. Employees of the Department of Transportation;
- 206 4. The Superintendent of the Department of State Police;
- 207 5. Officers and employees of the Department of State Police;
- 208 6. Members of the Alcoholic Beverage Control Board;
- 209 7. Employees of the regulatory and hearings divisions of the Department of Alcoholic Beverage
210 Control and special agents of the Department of Alcoholic Beverage Control;
- 211 8. The Commissioner of the Department of Motor Vehicles;
- 212 9. Employees of the Department of Motor Vehicles;

- 213 10. Local police officers;
- 214 11. Sheriffs and their deputies;
- 215 12. Regional jail officials;
- 216 13. Animal wardens;
- 217 14. The Director and officers of the Department of Game and Inland Fisheries;
- 218 15. Persons operating firefighting equipment and ambulances owned by a political subdivision of
219 the Commonwealth or a nonprofit association or corporation;
- 220 16. Operators of school buses being used to transport pupils to or from schools;
- 221 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the
222 driver, and used to regularly transport workers to and from their places of employment and (ii) public
223 transit buses;
- 224 18. Employees of the Department of Rail and Public Transportation;
- 225 19. Employees of any transportation facility created pursuant to the Virginia Highway
226 Corporation Act of 1988; and
- 227 20. Law-enforcement officers of the Virginia Marine Resources Commission.
- 228 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-
229 free use of such facilities, in cases of emergency and circumstances of concern for public safety on the
230 highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual
231 or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of
232 the toll facility by permitting the temporary suspension of toll collection operations on its facilities.
- 233 1. The assessment of the threat to public safety shall be performed and the decision temporarily
234 to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.
- 235 2. Major incidents that may require the temporary suspension of toll collection operations shall
236 include (i) natural disasters such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of
237 hazardous materials such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions;
238 and (iv) other incidents deemed to present a risk to public safety.

239 3. In any judicial proceeding in which a person is found to be criminally responsible or civilly
240 liable for any incident resulting in the suspension of toll collections as provided in this subsection, the
241 court may assess against the person an amount equal to lost toll revenue as a part of the costs of the
242 proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the
243 Department of Transportation for deposit into the toll road fund.

244 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll
245 bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor
246 punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in
247 subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll
248 tunnel, or toll road is guilty of a Class 1 misdemeanor.

249 D. Any vehicle operated by the holder of a valid driver's license issued by the Commonwealth or
250 any other state shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the
251 Commonwealth if:

- 252 1. The vehicle is specially equipped to permit its operation by a handicapped person;
- 253 2. The driver of the vehicle has been certified, either by a physician licensed by the
254 Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans
255 Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity
256 impairments that substantially impair his ability to deposit coins in toll baskets;
- 257 3. The driver has applied for and received from the Department of Transportation a vehicle
258 window sticker identifying him as eligible for such free passage; and
- 259 4. Such identifying window sticker is properly displayed on the vehicle.

260 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in
261 the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by
262 those persons exempted from tolls pursuant to this subsection and shall accept any payments made by
263 such persons.

264 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the
265 provisions of § 22.1-187.

266 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may
267 use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation
268 Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private
269 Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and
270 incidental to the conduct of official business:

- 271 1. The Commissioner of Highways;
- 272 2. Members of the Commonwealth Transportation Board;
- 273 3. Employees of the Department of Transportation;
- 274 4. The Superintendent of the Department of State Police;
- 275 5. Officers and employees of the Department of State Police;
- 276 6. The Commissioner of the Department of Motor Vehicles;
- 277 7. Employees of the Department of Motor Vehicles; and
- 278 8. Sheriffs and deputy sheriffs.

279 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in
280 Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the
281 requirements of subdivisions D 1 through 4.

282 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free
283 use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of
284 subdivision B 1 of § 56-543, said vehicles shall not be permitted toll-free use of a roadway as defined
285 pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

286 **§ 33.2-1024. Reformation, alteration, revision, amendment, or invalidation of certificate.**

287 Upon the recordation of such certificate, no reformation, alteration, revision, amendment, or
288 invalidation shall be made for any purpose without the prior consent of the court wherein such certificate
289 is recorded. The court shall have jurisdiction to reform, alter, revise, amend, or invalidate in whole or in
290 part any certificate; to correct mistakes in the description of the property affected by such certificate; to
291 correct the name of the owner in the certificate; to correct any other error that may exist with respect to
292 such certificate; or for any other purpose. A petition filed by the Commissioner of Highways with the

293 court setting forth any error made in such certificate, or the necessity of any change therein, shall be
294 deemed sufficient basis for the reformation, alteration, revision, amendment, or invalidation in whole or
295 in part of such certificate. The court may enter an order permitting the reformation, alteration, revision,
296 amendment, or invalidation in whole or in part, and such order, together with any revised certificate that
297 may be necessary, shall be ~~spread~~ recorded in the current deed book. The filing of any certificate
298 pursuant to the provisions of this section shall not alter the date of taking as established by the filing of
299 the original certificate pursuant to § 33.2-1021 as to any land that is included in the amended certificate,
300 and no such amended certificate shall include any land not in the original certificate. Nothing ~~herein~~
301 contained in this section shall be construed to prohibit or preclude any person damaged thereby from
302 showing in the proper proceeding the damage suffered by reason of such mistake or the invalidation of a
303 certificate of deposit as ~~herein~~ provided in this section.

304 **§ 33.2-1025. When condemnation proceedings instituted; payment of compensation or**
305 **damages; order confirming award; recording.**

306 Within 180 days after the recordation of such certificate, if the Commissioner of Highways and
307 the owner of such lands or interest therein taken or damaged by the Commissioner of Highways are
308 unable to agree as to the compensation or damages, if any, caused thereby, or such consent cannot be
309 obtained due to the incapacity of the owner, or because such owner is unknown or cannot with
310 reasonable diligence be found within the Commonwealth, the Commissioner of Highways shall institute
311 condemnation proceedings, as provided in this article, unless said proceedings shall have been instituted
312 prior to the recordation of such certificate. The amount of such compensation and damages, if any,
313 awarded to the owner in such proceedings shall be paid out of the appropriations to the Department. The
314 final order confirming the award of the Commissioner of Highways shall confirm absolute and
315 indefeasible title to the land, or interest therein sought, in the Commonwealth and shall be ~~spread~~
316 recorded in the current deed book.

317 **§ 33.2-1027. Agreements as to compensation; petition and order of court thereon;**
318 **disposition of deposit.**

319 At any time after the recordation of such certificate, but prior to the institution of condemnation
320 proceedings, if the Commissioner of Highways and the owner of the land or interest therein taken or
321 damaged are able to agree as to compensation for the land taken and damages, if any, caused by such
322 taking, the Commissioner of Highways shall file with the court a petition so stating, with a copy of the
323 agreement attached. If condemnation proceedings are already pending at the time of reaching such
324 agreement, no such petition shall be required, but the motion for dismissal of such proceedings shall
325 contain an averment that such agreement has been reached. Upon the filing of such petition or motion to
326 dismiss, the court shall thereupon enter an order confirming absolute and indefeasible title to the land or
327 interest therein in the Commonwealth. Such order shall be ~~spread~~ recorded in the current deed book.
328 Upon entry of such order, the Commissioner of Highways and State Treasurer shall be relieved of
329 further obligation by virtue of having filed such certificate of deposit with the court.

330 If it shall appear from such petition and agreement, or motion to dismiss a pending suit, that no
331 person other than those executing such agreement are entitled to the fund on deposit, the court shall
332 direct that such fund, after payment therefrom of any taxes that may be charged against such land taken,
333 be disbursed and distributed in accordance with the statement or charge in the petition or motion among
334 the parties or persons entitled thereto. If it shall appear that a controversy exists as to the persons entitled
335 to such fund, such distribution shall be made in accordance with the provisions of § 33.2-1023.

336 **§ 33.2-1230. Adjustment or relocation of certain billboard signs.**

337 A. Notwithstanding any other provision of law, general or special, whenever land is acquired due
338 to the widening, construction, or reconstruction of any highway ~~as defined in § 33.2-1200~~ by purchase
339 or by use of the power of eminent domain by any condemnor and upon such land is situated a lawfully
340 erected billboard sign ~~as defined in § 33.2-1200~~ or whenever a lawfully erected billboard sign ~~as defined~~
341 ~~in § 33.2-1200~~ is situated adjacent to such a highway and is affected by the construction of a sound wall,
342 such billboard sign may be relocated as provided in this section.

343 B. If a billboard sign meets all requirements under the provision of this title, the size, lighting,
344 and spacing requirements of a locality that is certified in accordance with 23 C.F.R. § 750.706 and the
345 federal-state agreement, if applicable, and § 4.1-113.1 in the case of outdoor alcoholic beverage

346 advertising, but is considered nonconforming solely due to a local ordinance, the owner of the billboard
347 sign, at his sole cost and expense, shall have the option to relocate such billboard sign to another
348 location as close as practicable on the same property, adjusting the height or angle of the billboard sign
349 to a height or angle that restores the visibility of the billboard sign to the same or comparable visibility
350 as before the taking or before construction of the sound wall, provided the new location also meets all
351 the requirements of this title and regulations adopted pursuant thereto. The billboard sign may remain in
352 its original location, provided the owner of the billboard sign pays monthly rent to the Commissioner of
353 Highways or other condemnor equivalent to the monthly rent received by the property owner for the
354 billboard prior to acquisition, and until such time as the Commissioner or other condemnor gives notice
355 to the owner of such billboard sign that the billboard sign must be removed. The notice of removal shall
356 be provided at least 45 days prior to the required removal date, which shall be the earlier of the
357 certification date for a highway project advertisement for construction bids or the date that utility
358 relocations are scheduled to commence.

359 C. Nothing in this section shall authorize the owner of such billboard sign to increase the size of
360 the sign face, and a relocated billboard sign shall continue to be nonconforming in its new location
361 unless the relocated billboard sign becomes conforming in its new location under the local ordinance.
362 The provisions of § 33.2-1219 shall apply to any relocation.

363 **§ 33.2-1509. Funds for access roads to economic development sites and airports;**
364 **construction, maintenance, etc., of such roads.**

365 A. Notwithstanding any other provision of law, there shall be appropriated to the Board funds
366 derived from taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes, or any
367 other state revenue allocated for highway purposes, which shall be used by the Board for the purposes
368 hereinafter specified in this section, after deducting the costs of administration before any of such funds
369 are distributed and allocated for any road or street purposes.

370 Such funds shall be expended by the Board for constructing, reconstructing, maintaining, or
371 improving access roads within localities to economic development sites on which manufacturing,
372 processing, research and development facilities, distribution centers, regional service centers, corporate

373 headquarters, or other establishments that also meet basic employer criteria as determined by the
374 Virginia Economic Development Partnership in consultation with the Virginia Department of Small
375 Business and Supplier Diversity will be built under firm contract or are already constructed and to
376 licensed, public-use airports; in the event there is no such establishment or airport already constructed or
377 for which the construction is under firm contract, a locality may guarantee to the Board by bond or other
378 acceptable device that such will occur and, should no establishment or airport acceptable to the Board be
379 constructed or under firm contract within the time limits of the bond, such bond shall be forfeited. The
380 time limits of the bond shall be based on regular review and consideration by the Board. Towns that
381 receive highway maintenance payments under § 33.2-319 shall be considered separately from the
382 counties in which they are located when receiving allocations of funds for access roads.

383 B. In deciding whether or not to construct or improve any such access road, and in determining
384 the nature of the road to be constructed, the Board shall base its considerations on the cost thereof in
385 relation to the volume and nature of the traffic to be generated as a result of developing the airport or the
386 economic development site. Within any economic development site or airport, the total volume of traffic
387 to be generated shall be taken into consideration in regard to the overall cost thereof. No such access
388 road shall be constructed or improved on a privately owned economic development site.

389 C. Any access road constructed or improved under this section shall constitute a part of the
390 secondary state highway system or the road system of the locality in which it is located and shall
391 thereafter be constructed, reconstructed, maintained, and improved as other roads or highways in such
392 system.

393 **§ 33.2-1726. Incidental powers of the Board.**

394 The Board may make and enter into all contracts or agreements necessary or incidental to the
395 execution of its powers under this chapter and may employ engineering, architectural, and construction
396 experts and inspectors, brokers, and such other employees as may be deemed necessary, who shall be
397 paid such compensation as may be provided in accordance with law. All such compensation and all
398 expenses incurred in carrying out the provisions of this chapter shall be paid solely from funds provided
399 under the authority of this chapter, and no liability or obligation shall be incurred pursuant to this

400 chapter beyond the extent to which money has been provided under the authority of this chapter. The
401 Board may exercise any powers that are necessary or convenient for the execution of its powers under
402 this chapter.

403 The Board shall maintain and keep in good condition and repair, or cause to be maintained and
404 kept in good condition and repair, the projects authorized under this chapter, when acquired or
405 constructed and opened to traffic, including any project or part thereof that may include portions of
406 existing streets or roads within a county, municipality, or other political subdivision.

407 The Board is authorized and empowered to establish regulations for the use of any one or more
408 of the projects defined in § 33.2-1700, as amended, including reasonable regulations relating to (i)
409 maximum and minimum speed limits applicable to motor vehicles using such project, any other
410 provision of law to the contrary notwithstanding; (ii) the types, kinds, and sizes of vehicles that may use
411 such projects; (iii) the nature, size, type of materials, or substances that shall not be transported over
412 such project; and (iv) such other matters as may be necessary or expedient in the interest of public safety
413 with respect to the use of such project, provided that as to the project authorized under the terms of
414 subdivision 5 of the definition of "project" in § 33.2-1700, the provisions of clauses (i), (ii), (iii), and
415 (iv) shall not apply to existing streets within a municipality and embraced by such project, except as may
416 be otherwise agreed upon by the Board and the municipality.

417 The projects acquired or constructed under this chapter may be policed in whole or in part by
418 State Police officers even though all or some portions of any such projects lie within the corporate limits
419 of a municipality or other political subdivision. Such officers shall be under the exclusive control and
420 direction of the Superintendent of State Police and shall be responsible for the preservation of public
421 peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property,
422 and enforcement of the laws and regulations of the Commonwealth within the limits of any such
423 projects. All other police officers of the Commonwealth and of each locality or other political
424 subdivision through which any project, or portion thereof, extends shall have the same powers and
425 jurisdiction within the limits of such projects as they have beyond such limits and shall have access to
426 the projects at any time for the purpose of exercising such powers and jurisdiction.

427 The Board is authorized and empowered to employ and appoint "project guards" for the purpose
428 of protecting the projects and to enforce the regulations of the Board, except those paralleling state law,
429 established for the use of such projects. Such guards may issue summons to appear or arrest on view
430 without warrant and conduct before the nearest officer authorized by law to admit to bail any persons
431 violating, within or upon the projects, any such rule or regulation. The provisions of §§ 46.2-936 and
432 46.2-940 shall apply mutatis mutandis to the issuance of summons or arrests without warrants pursuant
433 to this section.

434 The violation of any regulation adopted by the Board pursuant to the authority hereby granted
435 shall be punishable as follows: If such violation would have been a violation of law if committed on any
436 public street or highway in the county, city, or town in which such violation occurred, it shall be
437 punishable in the same manner as if it had been committed on such public road, street, or highway;
438 otherwise it shall be punishable as a Class 1 misdemeanor.

439 The powers and duties of the Board enumerated in this chapter shall not be construed as a
440 limitation of the general powers or duties of the Board. The Board, in addition to the powers and duties
441 enumerated in this chapter, shall do and perform any and all things and acts necessary in the
442 construction or acquisition, maintenance, and operation of any project to be constructed or acquired
443 under the provisions of this chapter, to the end that such project may become and be operated free of
444 tolls as early as possible and practicable, subject only to the express limitations of this chapter and the
445 limitations of other laws and constitutional provisions applicable thereto.

446 **§ 33.2-1915. Powers and functions generally.**

447 A. Notwithstanding any other contrary provision of law, a commission shall, except as provided
448 in subsection B, have the following powers and functions:

449 1. The commission shall prepare the transportation plan for the transportation district and shall
450 revise and amend the plan in accordance with the planning process and procedures specified in Article 7
451 (§ 33.2-1928 et seq.).

452 2. The commission may, when a transportation plan is adopted according to Article 7 (§ 33.2-
453 1928 et seq.), construct or acquire, by purchase or lease, the transportation facilities specified in such
454 transportation plan.

455 3. The commission may enter into agreements or leases with private companies for the operation
456 of its facilities or may operate such facilities itself.

457 4. The commission may enter into contracts or agreements with the counties and cities within the
458 transportation district, with counties and cities that adjoin the transportation district and are within the
459 same planning district, or with other commissions of adjoining transportation districts to provide, or
460 cause to be provided, transit facilities and service to such counties and cities or to provide transit
461 facilities and other modes of transportation between adjoining transportation districts. Such contracts or
462 agreements, together with any agreements or leases for the operation of such facilities, may be utilized
463 by the transportation district to finance the construction and operation of transportation facilities, and
464 such contracts, agreements, or leases shall inure to the benefit of any creditor of the transportation
465 district.

466 However, except in any transportation district containing any or all of the Counties of
467 Chesterfield, Hanover, and Henrico or the City of Richmond, being so delegated by the respective local
468 governments, the commission shall not have the power to regulate services provided by taxicabs, either
469 within municipalities or across municipal boundaries, which regulation is expressly reserved to the
470 municipalities within which taxicabs operate. In any transportation district containing any or all of the
471 Counties of Chesterfield, Hanover, and Henrico or the City of Richmond, the commission may, upon
472 proper authority granted by the respective component governments, regulate services provided by
473 taxicabs, either within localities or across county or city boundaries.

474 B. The Northern Virginia Transportation Commission:

475 1. Shall not prepare a transportation plan or construct or operate transit facilities, but shall
476 collaborate and cooperate in the manner specified in Article 7 (§ 33.2-1928 et seq.) with an agency in
477 preparing, revising, and amending a transportation plan for such metropolitan area.

478 2. Shall, according to Article 7 (§ 33.2-1928 et seq.) and in cooperation with the governing
479 bodies of the component governments embraced by the transportation district, formulate the tentative
480 policy and decisions of the transportation district with respect to the planning, design, location,
481 construction, operation, and financing of transportation facilities.

482 3. May, when a transportation plan applicable to such a transportation district is adopted, enter
483 into contracts or agreements with an agency to contribute to the capital required for the construction or
484 acquisition of transportation facilities and for meeting expenses and obligations in the operations of such
485 facilities.

486 4. May, when a transportation plan applicable to such transportation district is adopted, enter into
487 contracts or agreements with the counties and cities within the transportation district to provide or cause
488 to be provided transportation facilities and service to such counties and cities.

489 5. Notwithstanding any other provision in this section to the contrary:

490 a. May acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise
491 and provide transportation facilities thereon for use in connection with any transportation service;

492 b. May acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise
493 in advance of need for sale or contribution to an agency, for use by that agency in connection with an
494 adopted mass transit plan;

495 c. May, in accordance with the terms of any grant from or loan by the United States of America
496 or the Commonwealth, or any agency or instrumentality thereof, or when necessary to preserve essential
497 transportation service, acquire transit facilities or any carrier that is subject to the jurisdiction of the
498 Washington Metropolitan Area Transit Commission by acquisition of the capital stock or transit
499 facilities and other assets of any such carrier and shall provide for the performance of transportation by
500 any such carrier or with such transit facilities by contract or lease. However, the contract or lease shall
501 be for a term of no more than one year, renewable for additional terms of similar duration, and, in order
502 to assure acceptable fare levels, may provide for financial assistance by purchase of service, operating
503 subsidies, or otherwise. No such service shall be rendered that will adversely affect transit service
504 rendered by the transit facilities owned or controlled by the agency or any existing private transit or

505 transportation company. When notified by the agency that it is authorized to perform or cause to be
506 performed transportation services with motor vehicle facilities, the commission, upon request by the
507 agency, shall transfer such capital stock or transit facilities to the agency at a price to be agreed upon;
508 and

509 d. May prepare a plan for mass transportation services with cities, counties, agencies, authorities,
510 or commissions and may further contract with transportation companies, cities, counties, commissions,
511 authorities, agencies, and departments of the Commonwealth and appropriate agencies of the federal
512 government or governments contiguous to the Commonwealth to provide necessary facilities,
513 equipment, operations and maintenance, access, and insurance pursuant to such plan.

514 C. The provisions of subdivisions B 1 through 4 and subdivisions B 5 b and c shall not apply (i)
515 to any transportation district that may be established on or after July 1, 1986, and that includes any one
516 or more localities that are located within a metropolitan area, but that were not, on January 1, 1986,
517 members of any other transportation district or (ii) to any locality that, after July 1, 1989, joins a
518 transportation district that was established on or before January 1, 1986. The provisions of this
519 subsection shall apply only to any transportation district or locality that is contiguous to the Northern
520 Virginia Transportation District. Any such district or locality shall be subject to the provisions of
521 subsection A and further may exercise the powers granted by subdivision B 5 a to acquire land or any
522 interest therein by purchase, lease, gift, condemnation, or otherwise and provide transportation facilities
523 thereon for use in connection with any transportation service.

524 D. Until such time as a commission enters into contracts or agreements with its component
525 governments under the provisions of subdivisions A 4 and B 4 and is receiving revenues thereunder
526 adequate to meet the administrative expenses of the commission after paying or providing for the
527 payment of the obligations arising under said subdivisions, the administrative expenses of the
528 commission shall be borne by the component governments in the manner set forth in this section. The
529 commission annually shall submit to the governing bodies of the component counties and cities a budget
530 of its administrative requirements for the next year.

531 E. The administrative expenses of the Northern Virginia Transportation Commission, to the
532 extent funds for such expenses are not provided from other sources, shall be allocated among the
533 component governments on the basis of population as reflected by the latest population statistics of the
534 U.S. Census Bureau; however, upon the request of any component government, the commission shall
535 make the allocation upon estimates of population prepared in a manner approved by the commission and
536 by the governing body of the component government making such request. The administrative expenses
537 of the Northern Virginia Transportation Commission, to the extent funds for such expenses are not
538 provided from other sources, shall be allocated among the component governments on the basis of the
539 relative shares of state and federal transit aids allocated by the Commission among its component
540 governments. Such budget shall be limited solely to the administrative expenses of the Commission and
541 shall not include any funds for construction or acquisition of transportation facilities or the performing
542 of transportation service. In addition, the Northern Virginia Transportation Commission annually shall
543 submit to the governing bodies of the component counties and cities a budget of its other expenses and
544 obligations for the ensuing year. Such expenses and obligations shall be borne by the component
545 counties and cities in accordance with prior arrangements made therefor.

546 F. When a transportation plan has been adopted under subdivision ~~A~~ 4 of § 33.2-1929, the
547 commission shall determine the equitable allocation among the component governments of the costs
548 incurred by the district in providing the transportation facilities proposed in the transportation plan and
549 any expenses and obligations from the operation thereof to be borne by each county and city. In making
550 such determinations, the commission shall consider the cost of the facilities located within each county
551 and city, the population of each county and city, the benefits to be derived by each county and city from
552 the proposed transportation service, and all other factors that the commission determines to be relevant.
553 Such determination, however, shall not create a commitment by the counties and cities, and such
554 commitments shall be created only under the contracts or agreements specified in subdivisions A 4 and
555 B 4.

556 **§ 33.2-1929. Procedures.**

557 | ~~A.~~ To ensure that the planning process specified in § 33.2-1928 is effectively and efficiently
558 utilized, the commission shall conform to the following procedures and may prescribe such additional
559 procedures as it deems advisable:

560 1. Commission meetings shall be held at least monthly and more often in the discretion of the
561 commission, as the proper performance of its duties requires.

562 2. At such meetings the commission shall receive and consider reports from:

563 a. Its members who are also members of an agency, as to the status and progress of the work of
564 such agency, and if the commission deems that such reports are of concern to them, shall fully inform its
565 component governments, committees, and the Commonwealth Transportation Board with respect
566 thereto, as a means of developing the informed views requisite for sound policy-making; and

567 b. Its members, technical and other committees, members of the governing bodies of the
568 component governments, and consultants, presenting and analyzing studies and data on matters affecting
569 the making of policies and decisions on a transportation plan and the implementation thereof.

570 3. The objective of the procedures specified in this section is to develop agreement, based on the
571 best available information, among the district commission, the governing bodies of the component
572 governments, the Commonwealth Transportation Board, and an interstate agency with respect to the
573 various factors that affect the making of policies and decisions relating to a transportation plan and the
574 implementation thereof. If any material disagreements occur in the planning process with respect to
575 objectives and goals, the evaluation of basic data, or the selection of criteria and standards to be applied
576 in the planning process, the commission shall exert its best efforts to bring about agreement and
577 understanding on such matters. The commission may hold hearings in an effort to resolve any such basic
578 controversies.

579 4. Before a transportation plan is adopted, altered, revised, or amended by the commission or by
580 an agency on which it is represented, the commission shall transmit such proposed plan, alteration,
581 revision, or amendment to the governing bodies of the component governments, to the Commonwealth
582 Transportation Board, and to its technical committees and shall release to the public information with
583 respect thereto. A copy of the proposed transportation plan, amendment, or revision shall be kept at the

584 commission office and shall be available for public inspection. Upon 30 days' notice, published once a
585 week for two successive weeks in one or more newspapers of general circulation within the
586 transportation district, a public hearing shall be held on the proposed plan, alteration, revision, or
587 amendment. The 30 days' notice period shall begin to run on the first day the notice appears in any such
588 newspaper. The commission shall consider the evidence submitted and statements and comments made
589 at such hearings and, if objections in writing to the whole or any part of the plan are made by the
590 governing body of any component government, or by the Commonwealth Transportation Board, or if the
591 commission considers any written objection made by any other person, group, or organization to be
592 sufficiently significant, the commission shall reconsider the plan, alteration, revision, or amendment. If,
593 upon reconsideration, the commission agrees with the objection, then the commission shall make
594 appropriate changes to the proposed plan, alteration, revision, or amendment and may adopt them
595 without further hearing. If, upon reconsideration, the commission disagrees with the objection, the
596 commission may adopt the plan, alteration, revision, or amendment. No facilities shall be located in and
597 no service rendered, however, within any county or city that does not execute an appropriate agreement
598 with the commission or with an interstate agency as provided in § 33.2-1922; but in such case, the
599 commission shall determine whether the absence of such an agreement so materially and adversely
600 affects the feasibility of the transportation plan as to require its modification or abandonment.

601 **§ 33.2-2103. Powers and duties of commission.**

602 The commission may:

- 603 1. Expend district revenues to construct, reconstruct, alter, improve, or expand transportation
604 improvements, and make loans or otherwise provide for the cost of transportation improvements and for
605 financial assistance to operate transportation improvements in the district for the use and benefit of the
606 public.
- 607 2. Acquire by gift, purchase, lease, in-kind contribution to construction costs, or otherwise any
608 transportation improvements in the district and sell, lease as lessor, transfer, or dispose of any part of
609 any transportation improvements in such manner and upon such terms as the commission may determine
610 to be in the best interests of the district. However, prior to disposing of any such property or interest

611 therein, the commission shall conduct a public hearing with respect to such disposition. At the hearing,
612 the residents and owners of property within the district shall have an opportunity to be heard. At least 10
613 days' notice of the time and place of such hearing shall be published in a newspaper of general
614 circulation in the district, as prescribed by the commission. Such public hearing may be adjourned from
615 time to time.

616 3. Negotiate and contract with any person with regard to any matter necessary and proper to
617 provide any transportation improvements, including the financing, acquisition, construction,
618 reconstruction, alteration, improvement, expansion, operation, or maintenance of any transportation
619 improvements in the district. For the purposes of this chapter, transportation improvements are within
620 the district if they are located within the boundaries of the transportation improvement district or are
621 reasonably deemed necessary for the construction or operation of transportation improvements within
622 the boundaries of the transportation improvement district.

623 4. Enter into a continuing service contract for a purpose authorized by this chapter and make
624 payments of the proceeds received from the special taxes levied pursuant to this chapter, together with
625 any other revenues, for installments due under that service contract. The district may apply such
626 payments annually during the term of that service contract in an amount sufficient to make the
627 installment payments due under that contract, subject to the limitation imposed by this chapter.
628 However, payments for any such service contract shall be conditioned upon the receipt of services
629 pursuant to the contract. Such a contract shall not obligate a county or participating town to make
630 payments for services of the district.

631 5. Accept the allocations, contributions, or funds of any available source or reimburse from any
632 available source, including any person, for the whole or any part of the costs, expenses, and charges
633 incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, and
634 expansion or the operation of any transportation improvements in the district.

635 6. Contract for the extension and use of any public mass transit system or highway into territory
636 outside the district on such terms and conditions as the commission determines.

637 7. Employ and fix the compensation of personnel who may be deemed necessary for the
638 construction, operation, or maintenance of any transportation improvements in the district.

639 8. Have prepared an annual audit of the district's financial obligations and revenues, and upon
640 review of such audit, request a tax rate adequate to provide tax revenues that, together with all other
641 revenues, are required by the district to fulfill its annual obligations.

642 **§ 33.2-2205. Regulations of the Commission; enforcement.**

643 The Commission shall have power:

644 1. To adopt and enforce reasonable regulations that, after publication one time in full in a
645 newspaper of general circulation published in or having general circulation in the City of Virginia Beach
646 and a newspaper of general circulation published in or having general circulation in the County of
647 Northampton and when posted where the using public may conveniently see such regulations, shall have
648 the force and effect of law as to (i) maximum and minimum speed limits applicable to motor vehicles
649 using the project and other property under control of the Commission; (ii) the types, kinds, and sizes of
650 the vehicles that may use the project; (iii) the nature, size, type, or kind of materials or substances that
651 shall not be transported through or over the project; and (iv) such other regulations as may be necessary
652 or expedient in the interest of public safety with respect to the use of the project.

653 2. To punish a violation of the regulations provided for in subdivision 1 as follows:

654 a. If a violation would have been a violation of law or ordinance if committed on any public
655 street or highway in the locality in which such violation occurred, it shall be tried and punished in the
656 same manner as if it had been committed on such public street or highway.

657 b. If a violation occurs within one jurisdiction and is punishable within another jurisdiction, the
658 court trying the case shall, if the accused is found guilty, apply the punishment that is prescribed for
659 offenses occurring within the jurisdiction of the court trying the case.

660 c. All other violations shall be punishable as a Class 1 misdemeanor.

661 3. To appoint and employ police to enforce within the area under the control of the Commission
662 the regulations adopted by the Commission and the laws of the Commonwealth. Such police shall have

663 the powers vested in police officers under §§ 15.2-1704 and 52-8, which sections shall apply, mutatis
664 mutandis, to police appointed pursuant to this chapter.

665 Such police appointed by the Commission may issue summons to appear, or arrest on view or on
666 information without warrant as permitted by law, within the jurisdiction of the Commonwealth, and
667 conduct before any police or county court of any political subdivision into which the project extends any
668 person violating, within or upon the project or other property under the control of the Commission, any
669 rule or regulation of the Commission or any law of the Commonwealth pertaining to the regulation and
670 control of highway traffic on any bridge or tunnel owned or operated by the Commission, including all
671 entrance or exit plazas and approaches adjacent or appurtenant thereto and any rule or regulation
672 regarding the payment of tolls.

673 4. For the purpose of enforcing such laws and regulations, the courts of the City of Virginia
674 Beach and the County of Northampton have concurrent jurisdiction of criminal offenses that constitute
675 violations of the laws and regulations of the Commission.

676 **§ 33.2-2216. Governmental function; exemption from taxation.**

677 The exercise of the powers granted by this chapter will be in all respects for the benefit of the
678 people of the Commonwealth and for the increase of their commerce and prosperity and is a public
679 purpose, and as the operation and maintenance of the project will constitute the performance of essential
680 governmental functions, the Commission shall not be required to pay any taxes or assessments upon the
681 project or any property acquired by the Commission or under its jurisdiction, control, possession, or
682 supervision, or upon its activities in the operation and maintenance of the project, or used by the
683 Commission under the provisions of this chapter, or upon the income therefrom, and the bonds issued
684 under the provisions of this chapter, their transfer, and the income therefrom, including any profit made
685 on the sale thereof, shall at all times be free from all state and local taxation within the Commonwealth.

686 **§ 33.2-2300. U.S. Route 58 Corridor Development Fund.**

687 There is hereby created in the Department of the Treasury a special nonreverting fund that shall
688 be a part of the Transportation Trust Fund and that shall be known as the U.S. Route 58 Corridor
689 Development Fund, referred to in this chapter as "the Fund," consisting of the first \$40 million of annual

690 collections of the state recordation taxes imposed by Chapter 8 of Title 58.1, provided, however, that
691 this dedication shall not affect the local recordation taxes under subsection B of § 58.1-802 and § 58.1-
692 814. The Fund shall also include such other funds as may be appropriated by the General Assembly and
693 designated for the Fund and all interest, dividends, and appreciation that may accrue thereto. Any
694 moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall
695 remain in the Fund. Allocations from the Fund may be paid to any authority, locality, or commission for
696 the purposes specified in § 33.2-2301.

697 **§ 33.2-2915. Acquisition of property.**

698 A. The Authority may acquire, solely from funds provided under the provisions of this chapter,
699 such lands, structures, properties, rights, rights-of-way, franchises, easements, and other interests in
700 lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for
701 the construction and operation of Authority facilities, upon such terms and at such prices as may be
702 considered by it to be reasonable and can be agreed upon between it and the owner thereof.

703 B. The City of Richmond, the Counties of Henrico and Chesterfield, the Commonwealth
704 Transportation Board, and, with the approval of the Governor, public agencies and commissions of the
705 Commonwealth, notwithstanding any contrary provision of law, may lease, lend, grant, or convey to the
706 Authority at its request upon such terms and conditions as the governing bodies of the City of
707 Richmond, the Counties of Henrico and Chesterfield, the Commonwealth Transportation Board, or the
708 proper authorities of such agencies or commissions of the Commonwealth may deem reasonable and fair
709 and without the necessity of any advertisement, order of court, or other action or formality, other than
710 the regular and formal action of the governing bodies or authorities concerned, any real property that
711 may be necessary or convenient for the effectuation of the authorized purposes of the Authority,
712 including public highways and any other real property already devoted to public use.

713 C. The City of Richmond and the Counties of Henrico and Chesterfield may, subject to the
714 provisions of § 25.1-102, acquire by the exercise of the power of eminent domain granted to or
715 conferred upon them, and in accordance with the procedure prescribed therefor, any real property that
716 may be necessary or convenient for the effectuation of the authorized purposes of the Authority and

717 lease, lend, grant, or convey such property to the Authority upon such terms and conditions as the
718 governing bodies of the City of Richmond or Counties of Henrico and Chesterfield may deem
719 reasonable and fair; the acquisition of such real property by the exercise of the power of eminent domain
720 and the disposition of the same to the Authority as provided in this section shall be and is declared to be
721 for a public use of such property.

722 D. In any eminent domain proceedings by the Authority, the City of Richmond, or the County of
723 Henrico or Chesterfield under this chapter, the court having jurisdiction of the suit, action, or proceeding
724 may make such orders as may be just to the Authority, the City of Richmond, or the County of Henrico
725 or Chesterfield and to the owners of the property to be condemned, and may require an undertaking or
726 other security to secure such owners against any loss or damage by reason of the failure of the
727 Authority, the City of Richmond, or the County of Henrico or Chesterfield to accept and pay for the
728 property, or by reason of the taking of property occupied by such owners, but neither such undertaking
729 or security nor any act or obligation of the Authority, the City of Richmond, or the County of Henrico or
730 Chesterfield shall impose any liability upon the Commonwealth.

731 E. If the owner, lessee, or occupier of any property to be condemned or otherwise acquired
732 pursuant to this chapter refuses to remove his property therefrom or give up possession thereof, the
733 Authority, the City of Richmond, or the County of Henrico or Chesterfield may proceed to obtain
734 possession in any manner provided by law.

735 F. When the Authority, the City of Richmond, or the County of Henrico or Chesterfield proposes
736 to construct a highway across the tracks of any railroad, the exercise of the general power of eminent
737 domain over the property of a railroad granted by § 33.2-2902 shall be limited with respect to the
738 property, right-of-way, facilities, works, or appurtenances upon which the tracks at such proposed
739 crossing are located, to the acquisition only of an easement therein, which crossing shall be constructed
740 either sufficiently above or below the grade of any such railroad track so that neither the crossing then
741 under construction nor any part thereof, including any bridge abutments, columns, supporting structures,
742 and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation, or
743 maintenance of the trains, tracks, works, or appurtenances of the railroad or interfere with or endanger

744 the movement of the trains or traffic upon the tracks of the railroad. Prior to the exercise of the power of
745 eminent domain for such an easement, plans and specifications of that portion of the project to be
746 constructed across the railroad tracks showing compliance with such requirements and showing
747 sufficient and safe plans and specifications for such overhead or underground structure and
748 appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or
749 refuses within 30 days to approve the plans and specifications so submitted, the matter shall be
750 submitted by the Authority, the City of Richmond, or the County of Henrico or Chesterfield to the State
751 Corporation Commission, whose decision, arrived at after due consideration in accordance with its usual
752 procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such
753 elevations or distances above or below such tracks. The overhead or underground structures and
754 appurtenances shall be constructed in accordance with such plans and specifications and in accordance
755 with such elevations or distances above or below such tracks so approved by the railroad or the State
756 Corporation Commission. A copy of the plans and specifications approved by the railroad or the State
757 Corporation Commission shall be filed as an exhibit upon the institution of any proceeding brought in
758 the exercise of the power of eminent domain.

759 G. The Commonwealth hereby consents, subject to the approval of the Governor, to the use by
760 the Authority of any other lands or property owned by the Commonwealth, including lands lying under
761 water, that are deemed by the Authority to be necessary for the construction or operation of any project
762 being constructed by the Authority.

763 **§ 33.2-2916. Transfer to City of Richmond.**

764 A. If the City of Richmond has rendered financial assistance or contributed in any manner to the
765 cost of construction of a limited access highway by the Authority within or partly within and partly
766 without the corporate limits of the City of Richmond, and the Authority has issued bonds for the
767 construction of such limited access highway, then, when all such bonds, including refunding bonds, and
768 the interest thereon have been paid or a sufficient amount of cash or United States government securities
769 have been deposited and dedicated to the payment of all such bonds and the interest to the maturity or
770 redemption date thereof in trust for the benefit of the holders of such bonds, all property, real and

771 personal, acquired in connection with such limited access highway within the City of Richmond shall be
772 transferred by the Authority to the City as compensation to the City for the financial assistance rendered
773 by the City to the Authority in connection with the construction or acquisition of such limited access
774 highway, ~~and such.~~ Such highway shall upon the acceptance thereof by the City become a part of the
775 street or highway system of the City and shall thereafter be maintained and operated as a limited access
776 highway by the City. The governing body of the City of Richmond shall have the power to fix, revise,
777 charge, and collect tolls for transit over such limited access highway and as compensation for other uses
778 that may be made thereof. The proceeds from such tolls and compensation shall be first used to
779 reimburse the City of Richmond and the Counties of Henrico and Chesterfield for any funds or
780 expenditures made by each of them pursuant to contracts or agreements authorized by § 33.2-2913 for
781 which reimbursement has not been made, and then for the operation, maintenance, improvement,
782 expansion, or extension of such limited access highway and to increase its utility and benefits and for the
783 construction, reconstruction, maintenance, and operation of other projects or highways connected with
784 such limited access highway or with the federal or state highway systems, and for such purpose the City
785 of Richmond shall succeed to all the functions and shall have all the powers conferred on the Authority
786 by this chapter.

787 B. If the Authority constructs a limited access highway project partly within and partly without
788 the corporate limits of the City of Richmond, any extension thereof shall be constructed or acquired only
789 when approved by the unanimous vote of all members of the board of directors or by a vote of three-
790 fourths of the directors and approval by the City Council of the City of Richmond and the Boards of
791 Supervisors of the Counties of Henrico and Chesterfield. If the Authority has issued bonds for the
792 purpose of constructing such project or for the purpose of constructing or acquiring such extensions
793 when all such bonds, including any refunding bonds, and the interest thereon have been paid or a
794 sufficient amount of cash or United States government securities have been deposited and dedicated to
795 the payment thereof in trust for the benefit of holders of such bonds, all property, real and personal,
796 acquired in connection with such project or extension thereof not required to be transferred to the City of
797 Richmond pursuant to subsection A shall be transferred by the Authority to the political subdivisions in

798 which such property is located at the time of such transfer at no cost to such political subdivisions in the
799 event the subdivisions adopt a resolution accepting such property. If not accepted by such subdivisions
800 within 30 days from the offer of the property by the Authority, then the Authority shall transfer such
801 property to the Commonwealth Transportation Board. If such property is accepted by the political
802 subdivision where the property is located, the governing body of such subdivision shall have the power
803 to fix, revise, charge, and collect tolls for transit over such limited access highway project or extension
804 and as compensation for other uses that may be made thereof. The proceeds from such tolls and
805 compensation shall be used first to reimburse the City of Richmond and the Counties of Henrico and
806 Chesterfield for any funds or expenditures made by each of them pursuant to contracts or agreements
807 authorized by § 33.2-2913 for which reimbursement has not been made and then for the operation,
808 maintenance, improvement, expansion, or extension of such limited access highway project and to
809 increase its utility and benefits and for the construction, reconstruction, maintenance, and operation of
810 other projects or highways connected with such limited access highway or with the state or federal
811 highway systems and for such purpose such political subdivisions shall succeed to all the functions and
812 shall have all the powers conferred on the Authority by this chapter with respect to such property.

813 **§ 56-366.1. Proceedings to avoid or eliminate grade crossings by grade separation or to**
814 **widen, strengthen, remodel, relocate or replace existing crossing structures on public highways.**

815 Whenever a road in the ~~State Highway System~~ primary or secondary state highway system or a
816 public highway maintained by a locality (i) crosses a railroad, (ii) is projected across a railroad, or (iii) is
817 to be so changed as to cross a railroad, or an existing overpass or underpass crossing of any such road
818 and a railroad is in need of widening, strengthening, remodeling, relocating or replacing, and funds are
819 (or are to be) allocated by the Commonwealth Transportation Board or public road authority for
820 payment of the locality's or state's portion of the cost of constructing such an overpass or underpass
821 structure or for widening, strengthening, remodeling, relocating or replacing such an existing structure,
822 the Commissioner of Highways or representative of the public road authority may agree with the
823 railroad company or companies involved, on such terms and conditions as he shall deem in the best
824 interests of the Commonwealth or locality regarding the plans and specifications, the method and

825 manner of construction and the division of costs and maintenance responsibility of any such separation
826 of grade structure. In case of a separation of grade by structure at a new, or an existing, grade crossing,
827 the project, except in special cases and under special circumstances to be mutually agreed upon by the
828 Commissioner of Highways, the public road authority, and the railroad company or companies involved,
829 shall be deemed to start at points on each side of the tracks of the railroad or railroads where the grade,
830 under the proposed plans and specifications, leaves the ground line to go over or under, as the case may
831 be, the tracks of the railroad or railroads.

832 In the event the Commissioner of Highways, the public road authority, and the railroad company
833 or companies involved are unable to agree on (i) the necessity for the construction of such underpass or
834 overpass structure or for the widening, strengthening, remodeling, relocating or replacing of any existing
835 overpass or underpass structure, (ii) the plans and specifications for and method or manner of
836 construction thereof, or (iii) the portion of the work, if any, to be done and the share of the cost of such
837 project, if any, to be borne by each of the railroad company or companies involved, the Commissioner of
838 Highways or the public road authority shall petition the State Corporation Commission setting forth the
839 plans and specifications for and the method and manner of construction of such project and the facts
840 which in his opinion justify the elimination of the crossing, the erection of a new separation of grade
841 structure or the widening, strengthening, remodeling, relocating or replacing of an existing structure and
842 the maintenance responsibility. Copies of the petition and the plans and specifications shall forthwith be
843 served by the State Corporation Commission on the railroad company or companies involved. Within
844 twenty days after service on it of such petition and plans and specifications, the railroad company or
845 companies shall file an answer with the State Corporation Commission setting out its objections to the
846 proposed project and the Commission shall hear and determine the matter as other matters are heard and
847 determined by that body. The Commission shall consider all the facts and circumstances surrounding the
848 case and shall determine (a) whether public necessity and convenience justifies or requires the
849 construction of such new separation of grade structure or whether an existing structure is so dangerous
850 to or insufficient to take care of traffic on the highway as to require the widening, strengthening,
851 remodeling, relocating or replacing proposed, (b) whether the plans and specifications or method and

852 manner of construction are proper and appropriate, and (c) what portion of the work, if any, to be done
853 and what share of the cost of such project, if any, to be borne by each of the railroad company or
854 companies involved (excluding the cost of right-of-way) is fair and reasonable, having regard to the
855 benefits, if any, accruing to such railroad or railroads from the elimination of such grade crossing or the
856 widening, strengthening, remodeling, relocating or replacing any existing overpass or underpass
857 structure, and either dismiss the proceeding as against the railroad company or companies involved or
858 enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction.

859 Grade crossings shall be closed when replaced by a new public highway. However, the
860 Commonwealth Transportation Board or the public road authority may authorize the continued use of
861 the crossing for a period of two years following the construction of the new highway to familiarize the
862 public with the new route.

863 **§ 56-468.2. Reimbursement for relocation costs.**

864 A. After July 1, 1998, certificated providers of telecommunications services shall receive
865 reimbursement for eligible relocation costs incurred at the direction of a locality that imposes by
866 ordinance the Public Rights-of-Way Use Fee or the Department of Transportation for new installations
867 as defined in § 56-468.1 in any public rights-of-way in accordance with §§ 56-458 and 56-462 on the
868 basis of age and according to the following schedule. Such reimbursement shall be received from either
869 (i) the locality that granted the permit or franchise to use such right-of-way or (ii) the Commonwealth
870 Transportation Board if the road or street is in the ~~State Highway System or the secondary system of~~
871 state highways primary or secondary state highway system:

872 1. For the first three years after the completion of the installation, the certificated provider of
873 telecommunications service shall be reimbursed 100 percent of the eligible cost for the relocation of
874 facilities installed in the public rights-of-way.

875 2. For the fourth through sixth year after the completion of the installation, the certificated
876 provider of telecommunications service shall be reimbursed 50 percent of the eligible cost for the
877 relocation of facilities installed in the public rights-of-way.

878 3. Beginning in the seventh year, the certificated provider of telecommunications service shall be
879 responsible for the cost of relocating facilities installed in the public rights-of-way.

880 Such reimbursement shall be received from either (i) the locality that granted the permit or
881 franchise to use such right-of-way or (ii) the Commonwealth Transportation Board if the road or street is
882 in the ~~State Highway System or the secondary system of state highways~~ primary or secondary state
883 highway system.

884 B. The amount of relocation reimbursement in any fiscal year to be reimbursed under this section
885 shall not exceed the amount of Public Rights-of-Way Use Fees received by that locality either directly or
886 through its secondary highway fund apportionment in the preceding fiscal year. For facilities relocated
887 in 1998 and 1999 at the direction of the locality or the Commonwealth Transportation Board, this limit
888 on relocation reimbursement shall be the estimated annualized fees to be collected in that locality in
889 1998 for 1998 relocations and in 1999 for 1999 relocations. If the relocation reimbursement limit will be
890 exhausted on a relocation project where two or more certificated providers of telecommunications
891 service are eligible for relocation reimbursement, then the moneys available under the cap shall be
892 shared by those eligible providers by prorating the reimbursement based on the reimbursement to which
893 each provider would be entitled absent the limit.

894 **2. That 33.2-2217 and 56-355.1 of the Code of Virginia are repealed.**

895 **3. That the provisions of this act adding § 33.2-117 to the Code of Virginia shall be effective**
896 **retroactively to October 1, 2014.**

897 #

Preface

- Compilation of compacts and related records and reports, § 2.2-403
- Publication of Virginia compacts, § 30-154.1
- U.S. Constitution Article I, Section 10.

Compacts

A compact is an interstate agreement between two or more signatory states that is approved by Congress. *Updated annually.*

Administration of Government

- Southern States Energy Compact, §§ 2.2-5600 through 2.2-5603
- Chesapeake Regional Olympic Games Compact, § 2.2-5900 through 2.2-5901

Agriculture, Animal Care, and Food

- Pest Control Compact, §§ 3.2-714 through 3.2-731
- Southern Dairy Compact, § 3.2-3300 through 3.2-3303

Aviation

- Metropolitan Washington Airports Authority, §§ 5.1-152 through 5.1-178

Conservation

- Southeastern Interstate Forest Fire Protection Compact, § 10.1-1149
- Middle Atlantic Interstate Forest Fire Protection Compact, § 10.1-1150
- Southeast Interstate Low-Level Radioactive Waste Management Compact, § 10.1-1500 through 10.1-1504
- Breaks Interstate Park Compact of 1954

Counties, Cities and Towns

- Appalachian Region Interstate Compact, § 15.2-6900

Courts Not of Record

- Interstate Compact Relating to Juveniles, §§ 16.1-323 through 16.1-323.1

Education

- Interstate Agreement on Qualification of Educational Personnel, §§ 22.1-316 through 22.1-318

- Compact for Education; Education Commission of the States, § 22.1-336 through 22.1-338
- Southern Regional Education Compact, § 22.1-358 through 22.1-359
- Interstate Compact on Educational Opportunity for Military Children, § 22.1-360 through 22.1-361

Fisheries and Habitat of The Tidal Waters

- Atlantic States Marine Fisheries Compact, §§ 28.2-1000 through 28.2-1000.2
- Potomac River Compact, § 28.2-1001 through 28.2-1007

Game, Inland Fisheries and Boating

- Wildlife Violator Compact, § 29.1-530.5

Highways and Other Surface Transportation Systems

- Woodrow Wilson Bridge and Tunnel Compact, § 33.2-1300
- Virginia-North Carolina Interstate High-Speed Rail Compact, § 33.2-1400
- Washington Metropolitan Area Transit Regulation Compact of 1958, § 33.2-3000
- Washington Metropolitan Area Transit Authority Compact of 1966, § 33.2-3100

Insurance

- Interstate Insurance Product Regulation Compact, §§ 38.2-6200 through 38.2-6201

Libraries

- Interstate Library Compact, § 42.1-75

Military and Emergency Laws

- National Guard Mutual Assistance Compact, §§ 44-54.1 through 44-54.3
- Interstate Compact on National Guard Counterdrug Operations, § 44-75.1:1
- Emergency Management Assistance Compact, § 44-146.28:1
- Interstate Civil Defense Compact of 1952

Mines and Mining

- Interstate Mining Compact, § 45.1-271
- Interstate Compact to Conserve Oil and Gas, § 45.1-381 through 45.1-382

Motor Vehicles

- Driver License Compact, §§ 46.2-483 through 46.2-488
- Nonresident Violator Compact of 1977
- Potomac River Bridge Towing Compact of 1991

Prisons and Other Methods of Correction

- Jail Industry Programs, § 53.1-133.10
- The Interstate Compact for the Supervision of Adult Offenders, § 53.1-176.1 through 53.1-176.3
- Agreement on Detainers, § 53.1-210 through 53.1-215
- Interstate Corrections Compact, § 53.1-216 through 53.1-217

Professions and Occupations

- Nurse Licensure Compact, §§ 54.1-3030 through 54.1-3040

Trade and Commerce

- Live Horseracing Compact, §§ 59.1-394.1 through 59.1-394.4

Waters of the State, Ports and Harbors

- Potomac River Basin Commission, §§ 62.1-64 through 62.1-69
- Ohio River Valley Water Sanitation Commission, § 62.1-70 through 62.1-79

Welfare (Social Services)

- Interstate Compact on the Placement of Children, § 63.2-1000
- Implementation of the Interstate Compact on the Placement of Children, § 63.2-1100 through 63.2-1105

Boundaries

Until the 1920's, most compacts dealt with the settlement of boundary lines between the states.

- Boundaries, § 1-300
- Extent of territory of the Commonwealth after the Constitution of 1776, § 1-301
- Jurisdiction and ownership of Commonwealth over offshore waters and submerged lands, § 1-302

- Cession of territory northwest of Ohio River, § 1-303
- Boundary with North Carolina, § 1-304 & Virginia-North Carolina Boundary Agreement of 1791
- Boundary with North Carolina eastward from low-water mark of Atlantic Ocean, § 1-305 & Virginia-North Carolina Boundary Agreement of 1970
- Boundary with Tennessee, § 1-306 & Virginia-Tennessee Boundary Agreement of 1901
- Compact and boundary with Kentucky, § 1-307 & Kentucky and Virginia Jurisdiction Act of 1789
- Boundary with Maryland, § 1-308 & Virginia and Maryland Boundary Agreement of 1878
- Boundary with Maryland eastward from Assateague Island, § 1-309
- Boundary with Maryland in upper reaches of Pocomoke sound and lower reaches of Pocomoke River, § 1-310
- Recession of portion of District of Columbia, § 1-311 & Chap. 64.- An Act Accepting by the State of Virginia the County of Alexandria, in the District of Columbia, When the Same Shall be Receded by the Congress of the United States.
- Boundary with District of Columbia, § 1-312 & Virginia and District of Columbia Boundary Line Compact of 1946
- Boundary line between Loudoun County, Virginia, and Jefferson County, West Virginia, § 1-313

Historical References

- An Act for Confirming and Establishing the Boundary Line Between this State and the State of Kentucky, Ascertained and Fixed by Certain Commissioners Appointed by Both States, and for Other Purposes
- Virginia and West Virginia Boundary Agreement of 1863
- Virginia and West Virginia Boundary Compact of 1959
- Virginia-West Virginia Debt Agreement of 1861
- Maryland-Virginia Compact of 1785
- Virginia-Tennessee Boundary Agreement of 1803

COMPACTS

§ 2.2-403. Compilation of compacts and related records and reports.

The Secretary of the Commonwealth shall conserve a copy of each of the compacts to which the Commonwealth is now or has been a party, commencing with the compact entered into with the state of North Carolina that is referenced in chapter XXIX of the October Session of the 1778 Acts of the General Assembly. The record shall contain the dates on which the compacts were confirmed by the Commonwealth.

In accordance with § [30-154.1](#), beginning July 1, 2001, the Virginia Code Commission shall annually forward to the Secretary of the Commonwealth any newly enacted, amended or repealed compact as it was adopted by the Commonwealth.

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

The Secretary of the Commonwealth shall report to the Governor and the Virginia Commission on Interstate Cooperation within fifteen days after the convening of each legislative session, and at such other times as deemed appropriate, on appointments and vacancies to the interstate boards, commissions and committees established for the purposes of such compacts. (1976, c. 198, § 2.1-68.1; 2001, cc. [100](#), [844](#).)

§ 30-154.1. Publication of Virginia compacts.

The Code Commission shall annually arrange for the codification and incorporation into the Code of Virginia of all general, special and limited compacts to which the Commonwealth is a party. Within the discretion of the Commission, such incorporation may be through insertion within the existing text and organization of the Code of Virginia or as a freestanding volume.

The Commission shall, on or before July 1 of each year, transmit to the Secretary of the Commonwealth a copy of each new, amended or repealed compact as it was adopted by the Commonwealth in accordance with § [2.2-403](#). (2001, c. [100](#), § 9-77.11:03.)

Code Commission Policy:

Each compact will be assigned a Code section number in accordance with its proper title location. If a compact is general and permanent in nature, the compact will be set out in full in both the Code and in the Compacts volume. Otherwise, the compact will be set out in full only in the Compacts volume, and the section number in the Code of Virginia will contain only a reference directing the reader to the Compacts volume. The Code Commission expresses its desire to place the full text of all compacts online for free public access.

Compacts published in the Code Volumes and in the Compacts Volume	
§ 2.2-5600 through 2.2-5603	Southern States Energy Compact
§ 2.2-5900 through 2.2-5901	Chesapeake Regional Olympic Games Compact
§§ 3.2-714 through 3.2-731	Pest Control Compact
§ 3.2-3300 through 3.2-3303	Southern Dairy Compact
§§ 5.1-152 through 5.1-178	Metropolitan Washington Airports Authority
§ 10.1-1500 through 10.1-1504	Southeast Interstate Low-Level Radioactive Waste Management Compact
§ 15.2-6900	Appalachian Region Interstate Compact
§§ 16.1-323 through 16.1-323.1	Interstate Compact Relating to Juveniles
§ 22.1-316 through 22.1-318	Interstate Agreement on Qualification of Educational Personnel
§ 22.1-336 through 22.1-338	Compact for Education; Education Commission of the States
§ 22.1-358 through 22.1-359	Southern Regional Education Compact
§ 22.1-360 through 22.1-361	Interstate Compact on Educational Opportunity for Military Children
§§ 28.2-1000 through 28.2-1000.2	Atlantic States Marine Fisheries Compact
§ 28.2-1001 through 28.2-1007	Potomac River Compact
§ 29.1-530.5	Wildlife Violator Compact
§ 38.2-6200 through 38.2-6201	Interstate Insurance Product Regulation Compact
§ 42.1-75	Interstate Library Compact
§§ 44-54.1 through 44-54.3	National Guard Mutual Assistance Compact
§ 44-75.1:1	Interstate Compact on National Guard Counterdrug Operations
§ 44-146.28:1	Emergency Management Assistance Compact

§ 45.1-271	Interstate Mining Compact
§ 45.1-381 through 45.1-382	Interstate Compact to Conserve Oil and Gas
§§ 46.2-483 through 46.2-488	Driver License Compact
§ 53.1-133.10	Jail Industry Programs
§ 53.1-176.1 through 53.1-176.3	The Interstate Compact for the Supervision of Adult Offenders
§ 53.1-210 through 53.1-215	Agreement on Detainers
§ 53.1-216 through 53.1-217	Interstate Corrections Compact
§§ 54.1-3030 through 54.1-3040	Nurse Licensure Compact
§§ 59.1-394.1 through 59.1-394.4	Live Horseracing Compact
§§ 62.1-64 through 62.1-69	Potomac River Basin Commission
§ 62.1-70 through 62.1-79	Ohio River Valley Water Sanitation Commission
§ 63.2-1000	Interstate Compact on the Placement of Children

Compacts that are only in Compacts volume		
Place in Compacts Volume	Compact Name	Recommendation
§ 10.1-1149	Southeastern Interstate Forest Fire Protection Compact	Currently incorporated by reference - set out in Code section
§ 10.1-1150	Middle Atlantic Interstate Forest Fire Protection Compact	Currently incorporated by reference - set out in Code section
Title 44	Interstate Civil Defense Compact of 1952	Needs a code section number
Title 46.2	Nonresident Violator Compact of 1977	Needs a code section number
Back of the Volume	Breaks Interstate Park Compact of 1954	Needs a code section number
Back of the Volume	Potomac River Bridge Towing Compact of 1991	Needs a code section number
Title 33.2	Woodrow Wilson Bridge and Tunnel Compact	Not in effect - repeal
Title 33.2	Virginia-North Carolina Interstate High-Speed Rail Compact	Set out in Code Volume
Title 33.2	Washington Metropolitan Area Transit Regulation Compact of 1958	Set out in Code Volume
Title 33.2	Washington Metropolitan Area Transit Authority Compact of 1966	Set out in Code Volume

Virginia Code Commission Legislation - 2015 Session of the General Assembly

SUBJECT	SUMMARY	STATUS	PATRON	CATEGORY
Severability	Removes severability clauses by repeal or amendment throughout the Code of Virginia pursuant to the general severability clause, § 1-243. Severability clauses currently found in the Code are inconsistent and misleading and create the assumption that other sections of the Code are not severable. Severability sections applying outside of the Code of Virginia, for example to administrative regulations and interstate compacts, are maintained.	Approved 9/16/2014	Habeeb	Clean-up
Punitive or exemplary damages	Provides consistency by changing references to "exemplary damages" or "punitive or exemplary damages" to "punitive damages." The terms "exemplary" and "punitive" are interchangeable. The bill also makes technical corrections.	Pending action 11/18/2014	Habeeb	Clean-up
Title 33.2 technical corrections	Corrects typographical errors and other mistakes from the revision and recodification of Title 33.1. The bill implements clarifying changes and other changes made in the revision and recodification of Title 33.2.	Pending action 11/18/2014	LeMunyon	Clean-up
Southeastern Interstate Forest Fire Protection Compact and Middle Atlantic Interstate Forest Fire Protection Compact	Codifies two forest fire protection compacts from the 1956 and 1966 Acts of Assembly that were currently are incorporated by reference in Title 10.1 of the Code in furtherance of the provisions of pursuant to § 30-154.1 and the Code Commission policy that all compacts be codified. Both compacts are in effect. The only changes to the Acts of Assembly as they were adopted in 1956 and 1966 are to update §§ 3 and 4 of the Southeastern Interstate Forest Fire Protection Compact to properly identify Virginia's State Forester. The bill is a recommendation of the Code Commission.	Pending action 11/18/2014		Compacts

Virginia Code Commission Legislation - 2015 Session of the General Assembly

SUBJECT	SUMMARY	STATUS	PATRON	CATEGORY
Housing; removal of obsolete provisions; correction of citation	Removes the obsolete provisions in the Industrialized Building Safety Law relating to the effective date of regulations made pursuant to the Act and the application of penalties. The bill also removes obsolete language regarding staggered terms for members of the Manufactured Housing Board and corrects a citation to the Housing Revitalization Zone Act (§ 36-157 et seq.).	Approved 9/16/2014		Obsolete
References to Board for Rights of the Disabled and Board for the Rights of Virginians with Disabilities	Repeals as unnecessary § 51.5-35.1, which provides that references to the Board for Rights of the Disabled and the Board for the Rights of Virginians with Disabilities means the Virginia Board for People with Disabilities.	Pending action 11/18/2014		Obsolete
Military and emergency laws; obsolete provisions	Repeals provisions of Title 44 deemed obsolete by the Code Commission. Provisions related to the Naval Militia are repealed. Existence of the Naval Militia in Virginia cannot be found. Other sections repealed relate to ancient privileges retained by the Corps, provision of health insurance that is supplied elsewhere, and use of armories. An unused section requiring a loyalty oath by persons employed or associated with an emergency services organization is repealed. Also repealed is a 1944 provision regarding powers of attorney and agency agreements that expired six months after the end of World War II.	Pending action 11/18/2014		Obsolete
Administrative Process Act; ex parte communications	Prohibits certain ex parte communications in formal hearings.	Approved 10/21/2014		ALAC

Virginia Code Commission Legislation - 2015 Session of the General Assembly

SUBJECT	SUMMARY	STATUS	PATRON	CATEGORY
Administrative Process Act; disqualification of presiding officer or hearing officer	Establishes a process for the disqualification of presiding officers or hearing officers in situations where such officers cannot accord a fair and impartial hearing or consideration, or when required by the applicable rules governing the practice of law. The reasons that a presiding officer or hearing officer may be disqualified include prejudice, financial interest, ex parte communications, or any other fact that would cause a reasonable person to question the impartiality of the presiding officer or hearing officer.	Approved 10/21/2014		ALAC
Administrative Process Act; default by nonappearing party	Establishes a mechanism to more efficiently dispose of contested matters under the Virginia Administrative Process Act where the defendant in an administrative proceeding fails to appear at a hearing without a valid excuse. Currently, unless an agency's enabling statute provides differently, there is no provision for allowing an agency to enter a default order in a case in which the defendant fails to appear at a hearing.	Approved 10/21/2014		ALAC
Notice provisions; third-party commercial carrier	Provides that, in Titles 2.2 and 54.1, when service, delivery, or transmission of any notice or paper in any proceeding is authorized to be accomplished by mail, ordinary mail, registered mail, or certified mail, then service, delivery, or transmission by third-party commercial carrier is deemed to be authorized by such provision.	Pending action 11/18/2014		ALAC
Notice provisions; commercial delivery services	Provides that, in Titles 16.1, 17.1, 18.2, and 19.2, when service, delivery, or transmission of any notice or paper in any proceeding is authorized to be accomplished by mail, ordinary mail, registered mail, or certified mail, then service, delivery, or transmission by commercial delivery service is deemed to be authorized by such provision.	Approved 7/21/2014	Edwards	Other

Sections Pertaining to Policy/Purpose/Findings/Intent Not Set Out in Code of Virginia

Code Section	Acts	Catchline
TITLE 2.2		
2.2-5500	2001, c. 844	<i>Purpose</i>
TITLE 13.1		
13.1-312	1956, c. 428	<i>Declaration of policy</i>
13.1-542	1970, c. 77	<i>Legislative intent</i>
TITLE 15.2		
15.2-4601	1997, c. 587.	<i>Purpose of chapter</i>
15.2-6201	1997, c. 587	<i>Findings of fact</i>
TITLE 36		
36-72	1970, c. 305; 1971, Ex. Sess., c. 103; 1986, c. 37	<i>Declaration of policy</i>
36-85.4	1986, c. 37	<i>Purpose and application</i>
TITLE 45.1		
45.1-227	1979, c. 290	<i>Findings and policy</i>
45.1-272	1982, c. 269	<i>Legislative findings; declaration of policy</i>
45.1-285.1	1983, c. 3	<i>Findings; declaration of policy</i>
TITLE 46.2		
46.2-341.2	1989, c. 705 (numbered as § 46.1-372.2 in act)	<i>Statement of intent and purpose</i>
46.2-1580	1989, c. 308 (numbered as § 46.1-550.5:39 in act)	<i>Legislative findings</i>
TITLE 51.1		
51.1-124.1	1994, cc. 4, 85	<i>Legislative intent and purposes</i>
TITLE 56		
56-509	1952, c. 696	<i>Declaration of policy</i>
56-537	1988, c. 649; 1993, c. 732	<i>Policy</i>
TITLE 58.1		
58.1-3229	1950, § 58-769.4; 1971, Ex. Sess., c. 172; 1984, c. 675	<i>Declaration of policy</i>
58.1-3506.8	1991, c. 646	<i>Designation by General Assembly</i>
TITLE 63.2		
63.2-1400	2002, c. 747	<i>Findings and purposes</i>
63.2-1500	2002, c. 747	<i>Policy of the Commonwealth</i>

2. Conduct a public hearing in each jurisdiction in the service area to provide citizens with the opportunity to comment on the need for the proposed community action agency.

B. Upon receipt of the recommendation for designation of a community action agency, the designated agency, in consultation with the local governing body or bodies in the service area and with representatives of the low-income population of the area, shall develop a plan for organizing and funding the community action agency.

C. The designated agency shall present to the Secretary of Health and Human Resources the recommendation for community action status and a recommendation for funding the community action agency. Upon completion of a satisfactory review of the request and upon a determination of the availability of funds, the Secretary shall forward the recommendation to the Governor or his representative for designation.

D. Each community action agency that has been designated by a unit of local government and funded pursuant to the Economic Opportunity Act of 1964 (Public Law 88-452) and that is in operation on July 1, 1982, shall be deemed a community action agency for the purposes of this chapter.

E. No new community action agency shall be designated in any area of the Commonwealth that is served by an existing community action agency.

F. The Secretary of Human Resources may recommend that the Governor or his representative rescind the designation of a community action agency for cause. The Secretary shall:

1. Receive from the chief elected official of the local governing body in the service area a request for rescission indicating the causes therefor.

2. Publish in a newspaper of general circulation in each jurisdiction of the service area a statement of the intent to rescind with a request for response.

3. Conduct at least one public hearing in the area served by the community action agency.

§ 2.2-5408. Administration of community action budget.

The designated agency shall adopt regulations detailing the formula for the distribution of community action program budget funds. The regulations shall take into consideration the distribution of low-income persons residing in the service areas of the community action agencies, the relative cost of living of the areas, as well as other factors considered appropriate.

Each community action agency and community action statewide organization annually shall develop and submit a program budget request for funds appropriated from the community action program budget. The designated agency shall publish annually guidelines detailing the nature and extent of information required in the program budget request for the succeeding fiscal year.

In order to carry out its overall responsibility for planning, coordinating, evaluating and administering a community action program, a community action agency may under its charter or applicable laws receive and administer funds pursuant to this chapter. The community action agency may receive and administer funds and contributions from private or public sources that may be used in support of a community action agency or program and funds under any federal or state assistance program pursuant to which a public or private nonprofit agency organized in accordance with this chapter could act as grantee, contractor or sponsor of projects appropriate for inclusion in a community action program. A community action agency or community action statewide organization may transfer funds so received between components and to delegate funds to other agencies subject to the powers of its governing board and its overall program responsibilities.

In accordance with the requirements of the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), the designated agency in cooperation with community action agencies and community action statewide organizations, shall develop a state plan for submission annually by the Governor to the Secretary of Health and Human Services.

Community action agencies and community action statewide organizations shall provide the designated agency with quarterly financial and program reports.

Funds received in the Community Services Block Grant pursuant to the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) shall be expended in support of the purposes of this chapter as follows:

1. Ninety percent of the funds received in the Community Services Block Grant shall be used for the development 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 chapter of the designated agency.

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.

CHAPTER 55.

VIRGINIA BIOTECHNOLOGY RESEARCH ACT.

§ 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

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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.

§ 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 A. 1. or A. 2. of § 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, city or town located within the Commonwealth.

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

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

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

§ 2.2-5502. Exemptions from chapter to be determined by Department.

A. The Department may waive part or all of the requirements under this chapter for a specified regulated introduction if the Department determines that the satisfaction of that requirement is not necessary to protect the public health or the environment.

B. The Department may exempt a class of regulated introductions from part or all of any requirement under this chapter if the Department determines that the satisfaction of those requirements or part thereof is not necessary to protect the public health or the environment.

C. Planned regulated introductions approved by a federal regulator pursuant to the federal Coordinated Framework prior to enactment of this chapter shall be exempt from the provisions of this chapter.

§ 2.2-5503. Requirements for regulated introduction.

Except as provided under § 2.2-5502, no person may commence a regulated introduction unless the person:

1. Provides to the Department all of the following information within seven days after the person submits or should have submitted the information specified in subdivisions 1. a. and 1. b. to a federal regulator, whichever is sooner:

a. A copy of all information that the person is required to submit to the federal regulator and that is not confidential information; and

b. A summary of any confidential information that the person submits or is required to submit to a federal regulator. The summary shall provide sufficient information to enable the Department to exercise its notice and comment functions under §§ 2.2-5504 and 2.2-5505, to provide public notice pursuant to § 2.2-5504, and to prepare comments pursuant to § 2.2-5505, and shall have minimal extraneous and irrelevant information. The summary shall also provide sufficient information to enable the locality in which the introduction is proposed to be made to exercise its comment function under § 2.2-5505.

2. Provides such additional information, if any, as is necessary to enable the Department to fulfill any functions it undertakes, on a case-by-case basis, under § 2.2-5505.

§ 2.2-5504

Within five business days of the receipt of a brief description of a person who has spent time in a newspaper, magazine, or other publication, the Department shall, upon request, provide a copy of the proposed regulation to the person.

§ 2.2-5505

A. The Department shall, upon request, provide a copy of the proposed regulation to the person who submitted the information to the Department for review and approval of a regulated introduction.

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§ 2.2-5506

A. Except as otherwise provided, confidential information received by the Department shall be confidential.

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§ 2.2-5507.

The Department and any other re

co-operative marketing association or corporation and every general corporation that may be brought under the provisions of this chapter, whether such association, society, company, exchange or corporation be organized or brought under this chapter prior or subsequent to the date of the approval of this section and whether chartered under the laws of this State or otherwise chartered and doing business in this State, and conducting a mercantile, merchandise or brokerage business on the co-operative plan shall be taxable as a merchant by the State, and by the city or town within which such business is done. Nothing in this chapter shall exempt any such organization from any State or local merchant's license tax.

CHAPTER 2

AGRICULTURAL CO-OPERATIVE ASSOCIATIONS

§ 13.1-312. Declaration of Policy.—It is the declared policy of this State, as one means of improving the economic position of agriculture, to encourage the organization of producers of agricultural products into effective non-profit co-operative associations under the control of such producers, and to that end this Act should be liberally construed.

§ 13.1-313. Definitions.—As used in this Act, unless the context or subject matter requires otherwise:

(a) "Agricultural products" include livestock and livestock products, dairy products, poultry and poultry products, seeds, nuts, ground stock, horticultural, floricultural, viticultural, forestry, bee and any and all kinds of farm products.

(b) "Supplies" include any and all types of supplies, machinery and equipment used by farmers as producers or used by farmers as consumers.

(c) "Association" means a corporation organized under or adopting the provisions of this Act, or a foreign association or corporation authorized to do business in this State, organized under any general or special act as a co-operative association for the mutual benefit of its members and other patrons as farmers, and which confines its operations to purposes authorized by this Act and restricts the return on the stock or membership capital and the amount of its business with non-members to the limits placed thereon by this Act for associations organized hereunder and which qualifies to do business in this State under this Act.

Associations shall be classified as and deemed to be non-profit corporations, inasmuch as their primary object is not to pay dividends on invested capital, but to render service and provide means and facilities by or through which the producers of agricultural products may receive a reasonable and fair return for their products and obtain supplies and services on a co-operative non-profit basis.

(d) "This Act" means this chapter, which may be cited as the "Agricultural Co-operative Association Act."

(e) "Member" includes the holder of a membership in an association without capital stock and the holder of voting stock in an association organized with capital stock.

(f) "Person" includes an individual, a partnership, a corporation and an association.

(g) "Patron" means a person using the marketing facilities of an association for the marketing of agricultural products, or a person using the purchasing or service facilities of an association for the purchase of supplies or the rendering of services.

(h) "Board" means the board of directors of an association.

(i) "Commission" means the State Corporation Commission of Virginia.

§ 13.1-314. Qualification of Incorporators.—Five or more individuals, engaged in agriculture as bona fide producers of agricultural products, or two or more associations of such producers, may form an association.

§ 13.1-315. Purposes.—Such association may be organized for the

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The officer shall bill the district directors of internal revenue on a monthly basis for fees for documents filed by them.

§ 5. Notwithstanding any other provisions hereof, the fees for filing, indexing, searching, amending or for certificates of discharge or subordination, or any other fee which may be chargeable, by the Clerk of the State Corporation Commission shall be the same as those permitted to be charged according to the schedule of fees maintained by the Clerk of the State Corporation Commission.

§ 6. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 7. This act may be cited as the Uniform Federal Tax Lien Registration Act.

§ 8. If a notice of lien was filed on or before July one, nineteen hundred seventy any certificate or notice affecting the lien shall be filed in the same office.

§ 9. No action shall be brought against the State Corporation Commission or any member of the staff thereof claiming damage for alleged errors or omissions in the performance of the duties herein imposed on the said State Corporation Commission.

2. §§ 55-139, 55-139.1 and 55-139.2 are repealed.

CHAPTER 77

An Act to amend the Code of Virginia by adding in Title 13.1 a chapter numbered 7, consisting of sections numbered 13.1-542 through 13.1-556, relating to professional corporations.

[H 231]

Approved March 9, 1970

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding in Title 13.1 a chapter numbered 7, consisting of sections numbered 13.1-542 through 13.1-556 as follows:

Chapter 7

Professional Corporations

§ 13.1-542. It is the legislative intent to provide for the incorporation of an individual or group of individuals to render the same professional service to the public for which such individuals are required by law to be licensed or to obtain other legal authorization from the Commonwealth of Virginia.

§ 13.1-543. As used in this chapter:

(1) The term "professional service" shall mean any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which prior to the effective date of this act could not be performed by a corporation, and shall include, but shall not be limited to, the personal services rendered by pharmacists, practitioners of the healing arts, veterinarians, surgeons, dentists, architects, professional engineers, land surveyors, and attorneys at law. For the purposes of this chapter, architects, engineers and land surveyors shall be deemed to be rendering the same professional service.

(2) The term "professional corporation" means a corporation which is organized under this chapter for the sole and specific purpose of rendering professional service and which has as its shareholders only indi-

NOTE:
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Article 11.
Construction of Chapter.
§ 15.2-4534. Chapter liberally construed.
This chapter, being necessary for the welfare of the Commonwealth and
liberally construed to effect the purposes thereof.

CHAPTER 46.
MULTICOUNTY TRANSPORTATION IMPROVEMENT DISTRICTS.

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Article 1.
General Provisions.
§ 15.2-4600. Short title; application.
This chapter shall be known as the "Multicounty Transportation Improvement Districts Act." No
district shall be created under this chapter after June 30, 1993.

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§ 15.2-4601. Purpose of chapter.
It is the intent of the legislature to encourage the formation of transportation improvement
districts in multicounty circumstances in order to facilitate regional transportation initiatives, and
to gain access to revenues in addition to general state and local taxes for the purpose of
accelerating construction of vital transportation improvements.
It is the further intent of the legislature to grant to governing bodies of counties in which such
transportation improvement districts may be formed the authority to provide long-term zoning and
land use protection to properties paying the special taxes which further the purpose of this
chapter.
It is the further intent of the legislature that all districts created pursuant to this chapter
provide such long-term zoning protection where such special taxes have been imposed.
It is the further intent of the legislature to declare that the formation of transportation
improvement districts, and the granting of long-term land use protection in exchange for the
payment of special taxes, promote the public health, safety, and welfare.

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burden.

§ 15.2-4602. Definitions.
As used in this chapter, unless the context indicates another meaning or intent:
"Commission" means the governing body of the local district.
"Cost" means all or any part of the cost of acquisition, construction, reconstruction, alteration,
landscaping, or enlargement of a public mass transit system or highway which is located in
counties which are authorized by this chapter to create a transportation improvement district,
including the cost of the acquisition of land, rights-of-way, property rights, easements and interests
acquired for such construction, alteration or expansion, the cost of demolishing or removing any
structure on land so acquired, including the cost of acquiring any lands to which such structures
may be removed, the cost of all labor, materials, machinery and equipment, financing charges,
insurance, interest on all bonds prior to and during construction and, if deemed advisable by the
commission, for a reasonable period after completion of such construction, reserves for principal
and interest and for extensions, enlargements, additions, replacements, renovations and
improvements, provisions for working capital, the cost of surveys, engineering and architectural
expenses, borings, plans and specifications and other engineering and architectural services, legal
expenses, studies, estimates of costs and revenues, administrative expenses and such other expenses
as may be necessary, or incident to the construction of the project or, solely as to districts created
pursuant to this chapter after July 1, 1990, the creation of the district (the costs of which creation
shall not exceed \$150,000), and of such subsequent additions thereto or expansion thereof, and to
determining the feasibility or practicability of such construction, the cost of financing such
construction, additions or expansion and placing the project and such additions or expansion in
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"District" or "local district" means any transportation improvement district created under the
provisions of § 15.2-4603.

"District advisory board" or "advisory board" means the board appointed by the commission in
accordance with § 15.2-4605.

"Federal agency" means and includes the United States of America or any department, bureau,
agency or instrumentality thereof.

"Owner" or "landowner" means the person or entity which has the usufruct, control or
occupation of the taxable real property as determined by the commissioner of revenue of the
jurisdiction in which the subject real property is located pursuant to § 58.1-3281.

4. To perform any act or function which is in accord with the purposes of the chapter, including (i) borrowing money, (ii) providing for the guarantee of loans, and (iii) employing such persons as the Board deems necessary to carry on the business of the Authority.

§ 15.2-6106. Acceptance of funds, property, grants, or loans.

The Authority may accept funds and property from the federal government, the Commonwealth, persons, and localities and may use the same for any of the purposes for which the Authority is created.

Localities are hereby authorized to lend or donate money or other property to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

§ 15.2-6107. Eligible use of funds.

From such funds as may be appropriated or received, the Authority is hereby empowered to make loans and grants for the benefit of qualified private, for-profit enterprises and public or not-for-profit enterprises, nonprofit industrial development corporations, or industrial development authorities for financing the following:

1. Purchase of real estate;
2. Grading of site(s);
3. Water, sewer, natural gas or electrical line improvements, replacement and extensions;
4. Construction, rehabilitation, and expansion of buildings;
5. Construction of parking facilities;
6. Access roads construction and street improvements;
7. Purchase or lease of machinery and tools; and
8. Any other improvements deemed necessary by the Authority to meet its objectives.

§ 15.2-6108. Forms of accounts and records; audit of same.

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of the Authority shall be subject to audit by the Auditor of Public Accounts or his legal representative on an annual basis and the costs of such audit services shall be borne by the Authority. The Authority's fiscal year shall be the same as the Commonwealth's.

§ 15.2-6109. Dissolution of Authority.

Whenever the Board determines that the purpose for which the Authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the Authority have been paid, that cash or a sufficient amount of United States government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the Board may adopt resolutions declaring and finding that the Authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving the Authority may be introduced in the General Assembly. The dissolution of the Authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by the Authority at the time of such dissolution shall vest in the counties and cities which have contributed to the fund in proportion to their respective contributions.

§ 15.2-6110. Chapter liberally construed.

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

CHAPTER 62.

ALLEGHANY-HIGHLANDS ECONOMIC DEVELOPMENT AUTHORITY.

§ 15.2-6200. Authority created; name.

The Alleghany-Highlands Economic Development Authority, hereinafter referred to as the Authority, is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter. Each locality within the region may become a member of the Authority upon passage of a region-wide concurrent resolution by the governing bodies. The resolution may be passed at any time prior to the effective date of this chapter; otherwise, membership shall be effective July 1, 1993.

§ 15.2-6201. Findings of fact.

The economy of the Alleghany-Highlands region has not kept pace with that of the rest of the Commonwealth. The economic problems of the Alleghany-Highlands region are due in large part

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to its inability to diversify. The region has suffered, and continues to suffer, widespread unemployment in great disproportion to the rest of the Commonwealth.

The Alleghany-Highlands Economic Development Authority will assist this region of the Commonwealth to achieve a greater degree of economic stability.

It is hereby further declared that the foregoing is a public purpose and use for which public moneys may be spent and such activity will serve a public purpose in providing jobs to the citizens of the Commonwealth.

§ 15.2-6202. Duties of Authority; governmental functions.

A. The Authority shall provide financial support (i) for the purchase of real estate, construction of buildings for sale or lease, installation of utilities and any other support improvements it deems necessary, including flood control dams, and (ii) for direct loans and grants to private for-profit basic employers. The Authority shall also apply for matching funds from the state or federal government, or the private sector. All such loans and grants may be managed by the Fifth Planning District Commission.

B. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, particularly the County of Alleghany and the City of Clifton Forge; for the increase of their commerce; and for the promotion of their safety, health, welfare, convenience and prosperity.

C. For purposes of this chapter, "Alleghany-Highlands Region" includes the County of Alleghany and the City of Clifton Forge.

§ 15.2-6203. Board of Authority; members and officers; staff; annual report.

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Alleghany-Highlands Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Initial appointments shall begin July 1, 1993. The Board shall consist of seven members as follows: one representative of each of the region's governing bodies, or their designees, who shall be appointed by the respective governing bodies and shall be residents of the region; four at-large members, who shall be appointed by the Governor and shall be residents of the region; and one member to be appointed by the Executive Director of the Virginia Economic Development Partnership. All members shall serve for a term of four years and may be reappointed for one additional term. For the initial appointments only, two of the four at-large members shall be appointed for two-year terms and such initial terms shall not be counted toward the term limitation.

B. Each member of the Board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses incurred in the performance of their duties.

C. Four members of the Board shall constitute a quorum, and the affirmative vote of four members of the Board shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

D. The Board shall elect from its membership a chairman and a secretary-treasurer for each calendar year. The secretary-treasurer shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director and staff who shall discharge such functions as may be directed by the Board.

E. The Board, promptly following the close of the fiscal year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, and the board of supervisors and city councils of the Region. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.

§ 15.2-6204. Office of Authority; title to property.

The Board shall maintain the principal office of the Authority within the Region. All records shall be kept and business transacted at such office. The title to all property of every kind belonging to the Authority shall be titled to the Authority, which shall hold it for the benefit of its members and the Commonwealth.

§ 15.2-6205. General powers of Authority; regulations; enforcement of statutes, rules, etc.

The Authority acting through its Board:

1. Is vested with the powers of a body corporate, including the power to sue and be sued, plead and be impleaded, make contracts, and adopt and use a common seal and alter the same as may be deemed expedient;

CHAPTER 37

An Act to amend and reenact §§ 36-70, 36-72 through 36-85.1 and 36-114 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 4 of Title 36 sections numbered 36-71.1 and 36-82.1 and by adding in Title 36 a chapter numbered 4.1 consisting of sections numbered 36-85.2 through 36-85.15, and to repeal § 36-71 of the Code of Virginia, the amended, added and repealed sections relating to the Industrialized Building Safety Law and the Manufactured Housing Construction and Safety Standards Law; penalty.

[H 611]

Approved March 4, 1986

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-70, 36-72 through 36-85.1 and 36-114 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 4 of Title 36 sections numbered 36-71.1 and 36-82.1 and by adding in Title 36 a chapter numbered 4.1 consisting of sections numbered 36-85.2 through 36-85.15 as follows:

CHAPTER 4.
INDUSTRIALIZED BUILDING UNIT
AND MOBILE HOME SAFETY LAW.

§ 36-70. Short title.—The short title of the law embraced in this chapter is the Virginia Industrialized Building Unit and Mobile Home Safety Law.

§ 36-71.1. Definitions.—As used in this chapter, unless a different meaning or construction is clearly required by the context:

"Administrator" means the Director of the Department of Housing and Community Development or his designee.

"Board" means the Board of Housing and Community Development.

"Compliance assurance agency" means an architect or professional engineer registered in Virginia, or an organization, determined by the Department to be specially qualified by reason of facilities, personnel, experience and demonstrated reliability, to investigate, test and evaluate industrialized buildings; to list such buildings complying with standards at least equal to those promulgated by the Board; to provide adequate follow-up services at the point of manufacture to ensure that production units are in full compliance; and to provide a label as evidence of compliance on each manufactured section or module.

"Department" means the Department of Housing and Community Development.

"Industrialized building" means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in § 36-85.3 and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act shall not be considered industrialized buildings for the purpose of this law.

"Registered" means that an industrialized building displays a registration seal issued by the Department of Housing and Community Development.

"The law" or "this law" means the Virginia Industrialized Building Safety Law as provided in this chapter.

§ 36-72. Declaration of policy.—Industrialized building units and mobile homes buildings, because of the manner of their construction, assembly and use and that of their systems, components and appliances (including heating, plumbing and electrical systems) like other finished products having concealed vital parts, may present hazards to the health, life and safety of persons and to the safety of property unless properly designed and manufactured.

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In the sale or rental of industrialized building units and mobile homes *buildings*, there is also the possibility of defects not readily ascertainable when inspected by purchasers or users or by the local building official. It is the policy and purpose of this State *Commonwealth* to provide protection to the public against those possible hazards and to promote sound building construction, and for that purpose, to forbid the sale, rental or use of new industrialized building units and mobile homes *buildings* which are not so constructed as to provide reasonable safety and protection to their owners and users and involve reasonably sound building practices. It is the further policy of this State *Commonwealth* to minimize the unique problems presented by a lack of uniform standards and inspection procedures affecting the mass production of housing and to hereby declare its intention to encourage the reduction of construction costs and to make housing more feasible for all residents of the State *Commonwealth*.

§ 36-73. Authority of Board to promulgate rules and regulations.—The Board shall from time to time promulgate rules and regulations prescribing standards to be complied with in industrialized building units and mobile homes *buildings* for protection against the hazards thereof to safety of life, health and property and prescribing procedures for the administration, enforcement and maintenance of such rules and regulations. Said standards shall be reasonable and appropriate to the objectives of this law and within the guiding principles prescribed by the General Assembly in this law and in any other law in pari materia. *The standards shall not be applied to manufactured homes defined in § 36-85.3.*

In making such rules and regulations, the Board shall have due regard for generally accepted safety standards as recommended by nationally recognized organizations, such as the American National Standards Institute Standard A 119-1 and the National Fire Protection Association No. 501 B, applying to mobile homes *Building Officials and Code Administrators International, Inc.* :

The Board shall likewise have due regard for standards of the Southern Building Codes Congress, the Building Officials Conference of America, the International Conference of Building Officials, the National Fire Protection Association and the National Bureau of Standards applying to industrialized building units *Council of American Building Officials* .

Where practical, the rules and regulations shall be stated in terms of required levels of performance, so as to facilitate the prompt acceptance of new building materials and methods. Where generally recognized standards of performance are not available, the rules and regulations of the Board shall provide for acceptance of materials and methods whose performance has been found by the Board *Department* , on the basis of reliable test and evaluation data presented by the proponent, to be substantially equal in safety to those specified.

§ 36-74. Notice and hearing on rules and regulations.— Before any rules or regulations are adopted, The Board shall hold at least one public hearing. At least thirty days' notice thereof shall be given by publication in at least four newspapers of general circulation published in the State. In addition to notice by publication, the Board shall notify in writing the mayor or other like official of every municipality in the State, and the chairman of the governing body of every county in the State of such hearing, but failure to give or receive any such notice shall not in anywise impair the validity of any rule or regulation adopted, amended or repealed. At any such hearing all persons, desiring to do so, shall be afforded an opportunity to present their views. Notice of amendments to or repeal of *comply with all applicable requirements of the Administrative Process Act (§ 9-6.14:1 et seq.)* when adopting, amending or repealing any rules or regulations theretofore adopted shall be given as aforesaid under this law .

§ 36-75. Amendment, etc., and annual review of rules and regulations.—The Board may modify, amend or repeal any rules or regulations from time to time as the public interest requires ; after notice and hearings as provided in § 36-100 of the Code of Virginia .

The Board and the Department *Administrator* shall make an annual review of the rules and regulations, considering the housing needs and supply in the State *Commonwealth* and factors that tend to impede or might improve the availability of housing for all citizens of the State *Commonwealth* and they shall recommend to the Board such modifications, amendments or repeal as deemed necessary.

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"Imminent safety hazard" means a hazard that presents an imminent risk of death or severe personal injury.

"Manufactured home" means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

"Manufactured home construction" means all activities relating to the assembly and manufacture of a manufactured home including but not limited to those relating to durability, quality, and safety.

"Manufactured home safety" means the performance of a manufactured home in such a manner that the public is protected against unreasonable risk of the occurrence of accidents due to the design or construction of the home, or any unreasonable risk of death or injury to the user if such accidents do occur.

"Manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes.

"Purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale.

"Secretary" means the Secretary of the United States Department of Housing and Urban Development.

"State Administrative Agency" or "SAA" means the Department of Housing and Community Development which is responsible for the administration and enforcement of this law throughout Virginia and of the plan authorized by § 36-85.5.

"The law" or "this law" means the Virginia Manufacturing Housing Construction and Safety Standards Law as embraced in this chapter.

§ 36-85.4. Purpose and application.—The primary purpose of this law is to provide for enforcement by Virginia of the Federal Act and the standards and regulations adopted by the Secretary under authority granted by the Federal Act. Adoption of this law is intended to enable manufactured home inspection and enforcement activities to be performed by the Department. Any manufactured home constructed on or after the effective date of this chapter or constructed on or after June 15, 1976, and formerly subject to the Federal Act or the Industrialized Building Unit and Mobile Home Safety Law (§ 36-70 et seq.), shall be subject to this law.

§ 36-85.5. Enforcement.—The Department of Housing and Community Development is designated as the agency of this State Administrative Agency plan approved by HUD. The Administrator is authorized to perform the following functions:

1. Enforce the Federal Standards with respect to all manufactured homes manufactured in Virginia;
2. Assure that no state or local standard conflicts with those Federal Standards governing manufactured housing construction and performance;
3. Enter and inspect factories, warehouses, or establishments in which manufactured homes are manufactured, stored, or offered for sale as may be required;
4. Seek enforcement of the civil and criminal penalties established by § 36-85.12 of this law;
5. Carry out the notification and correction procedures specified in the Federal Regulations, including holding such hearings and making such determinations as may be necessary and requiring manufacturers in the Commonwealth to provide such notifications and corrections as may be required by the Federal Regulations;
6. Employ such qualified personnel as may be necessary to carry out the approved plan for enforcement and otherwise administer this law;
7. Require manufacturers, distributors, and dealers in the Commonwealth to make reports to the Secretary in the same manner and to the same extent as if such plan were not in effect;
8. Participate, advise, assist, and cooperate with other state, federal, public, and private agencies in carrying out the approved plan for enforcement;

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Mining Control and Reclamation Act of 1979."

§ 45.1-227. Findings and policy.—A. The General Assembly finds and declares that federal enforcement and administration of the regulatory program established by the federal Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87), would not be in the best interests of the Commonwealth. It is the objective of the General Assembly to preclude, or minimize the adverse effects of federal enforcement, and to allow the regulation of coal surface mining to remain within the powers of the Commonwealth, to the fullest extent possible.

It is the purpose of this chapter to enable the Commonwealth through its own instrumentalities, to enforce and administer the provisions of the federal program, in order to lessen federal enforcement and administration thereof.

Nothing in this chapter, however, is intended, nor shall be construed, as expressing the Commonwealth's approval of or satisfaction with the standards or provisions contained in the regulatory program of the federal act, so as to limit or affect any suit, action or other proceeding brought by the Commonwealth or any person, to invalidate, set aside or modify, in whole or part, the federal act or regulations promulgated thereunder.

B. The proper control of surface mining of coal so as to minimize or prevent adverse disruptions and the injurious effects thereof requires thorough planning in the selection of appropriate coal surface mining sites, methods of coal surface mining, and the nature and extent of reclamation; consideration of the impact of coal surface mining upon the ecology and land use of surrounding areas as well as upon the disturbed land of the coal surface mining site; methods of coal surface mining and the nature and extent and the incorporation and use of control techniques and reclamation actions as an integral and simultaneous part of coal surface mining;

C. Because the Commonwealth's administrative agencies, through their experience of regulating coal surface mining, have developed a special expertise in the characteristics of coal surface mining in Virginia, as well as physical conditions in Virginia's coal mining areas, and because coal mining is such an important and integral element in the economy and culture of Virginia, it is in the best interest of the Commonwealth that the development, administration and enforcement of the provisions of the federal Surface Mining Control and Reclamation Act of 1977 be carried out by State officials and instrumentalities pursuant to a permanent State regulatory program and a State abandoned mine reclamation program approved by the Secretary of the Interior of the United States.

§ 45.1-228. Purpose and policy.—A. It is the purpose and policy of this chapter to do the following:

1. Provide for the implementation and enforcement, by the Commonwealth, of the federal Surface Mining Control and Reclamation Act of 1977, and the regulations of the United States Secretary of the Interior promulgated, thereunder, and amendments thereto, as the same may be or become effective at any time or from time to time.

2. Promote the reclamation of coal-mined areas, and areas which have been affected by such mining, which were not adequately reclaimed, or abandoned, prior to the enactment of the Federal Surface Mining Control and Reclamation Act of 1977, and which, in their unreclaimed condition, continue to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the public health or safety;

3. Exercise the police power of the Commonwealth in a coordinated Statewide program to effectively control present and future problems associated with coal surface mining and provide for the reclamation of disturbed lands to insure the protection of the public welfare and safety;

4. Authorize and enable the Department of Conservation and Economic Development to submit, and obtain approval of, a permanent State regulatory program and abandoned mine reclamation program, pursuant to the federal Surface Mining Control and Reclamation Act of 1977.

B. Nothing in this chapter is intended, nor shall be construed, to limit, impair, abridge, create, enlarge, or otherwise affect, substantially or procedurally, the rights of any person in any dispute involving property rights, including interests in water resources, or the right of any person to damage or other relief on account of injury to persons or property.

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ACTS OF ASSEMBLY

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consisting of sections numbered 45.1-272 through 45.1-285, as follows:

CHAPTER 21.

EXPLORATION FOR URANIUM ORE.

§ 45.1-272. Legislative findings; declaration of policy.—The mining of uranium within the Commonwealth has the potential to provide its citizens with employment opportunities and other economic benefits. It also offers the Commonwealth and the nation the possibility of developing valuable resources that can be used to produce energy in a clean, efficient manner and lessen this country's dependence on foreign energy supplies.

At the same time, the General Assembly finds that the improper and unregulated exploration for uranium can adversely affect the health, safety, and general welfare of the citizens of this Commonwealth.

The General Assembly also finds that the adoption of additional statutes during the 1983 Session of the General Assembly may be necessary in order to assure that any uranium mining and milling which may occur in the Commonwealth will not adversely affect the environment or the public health and safety.

The purposes of this chapter are to encourage and promote the safe and efficient exploration for uranium resources within the Commonwealth, and to assure, pursuant to § 45.1-284 of this Code, that uranium mining and milling will be subject to statutes and regulations which protect the environment and the health and safety of the public.

§ 45.1-273. Definitions.—The following words shall have the meanings respectively ascribed thereto:

"Chief" means the Chief of the Division of Mines of the Department of Labor and Industry or such other public officer, employee, board, commission or other authority that in emergencies may be acting in the stead, or by law be assigned the duties and authority, of the Chief of the Division of Mines of the Department of Labor and Industry.

"Exploration Activity" means and shall be limited to the drilling of test holes or stratigraphic or core holes of a depth in excess of fifty feet for the purpose of determining the location, quantity, or quality of uranium ore.

"Person" shall mean any individual, firm, corporation, partnership, association or other legal entity.

§ 45.1-274. Permit for exploration activity required; fee.—A. It shall be unlawful for any person to commence any exploration activity as defined herein without first obtaining a permit to do so from the Chief. The application for the permit shall be in such form as the Chief may prescribe and shall be accompanied by a fee of \$250 and such other information as may be required by this chapter.

B. The application for a permit to carry out any exploration activity shall be accompanied by a bond, payable to the Commonwealth, with surety acceptable to the Chief. The bond shall ensure compliance with the provisions of this chapter and any regulations promulgated hereunder relating to the drilling, redrilling, plugging and abandoning of any exploration activity. The bond shall be set by the Chief in such amount as may be deemed reasonable and necessary.

C. An initial permit shall be valid for a period of one year, and may be renewed for a like period of time.

§ 45.1-275. Maps or plats of proposed exploration activity area.—Before undertaking any exploration activity on any tract of land, the person proposing the exploration activity shall prepare or have prepared and file with the Chief, together with the application required by § 45.1-274 of this Code, an accurate map, on a scale to be stated thereon, showing the location of the proposed exploration activity; the courses and distances of such activity from two permanent points or landmarks on the tract; the approximate location areas in which test holes or core or stratigraphic holes may be drilled; the name of the owner; and boundaries and acreage of the tract on which the exploration activity is to take place.

§ 45.1-276. Abandoning exploration hole; affidavits required.—Within forty-five days after the abandonment of any exploration hole, the permittee shall notify the Chief that such exploration hole has been plugged and abandoned, giving the location of such hole. The permittee shall submit an affidavit, in triplicate, which shall set forth the time and manner in which the hole was plugged and filled. One copy of this affidavit shall be retained by

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On and after January 1, 1975, no additional circuit court judge shall be authorized or provided for any judicial circuit until the Judicial Council shall have made a study of the need for such additional circuit court judge and shall have reported its findings and recommendations to the Courts of Justice Committees of the House of Delegates and Senate. Nor shall the boundary of any judicial circuit be changed until a study shall have been made by the Judicial Council and a report of its findings and recommendations made to said committees.

CHAPTER 3

An Act to amend and reenact § 45.1-283 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 21 of Title 45.1, an article numbered 2, consisting of sections numbered 45.1-285.1 through 45.1-285.10, relating to uranium mining.

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Approved February 24, 1983

Be it enacted by the General Assembly of Virginia:

1. That § 45.1-283 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 21 of Title 45.1, an article numbered 2, consisting of sections numbered 45.1-285.1 through 45.1-285.10 as follows:

§ 45.1-283. Uranium mining permit applications.—Notwithstanding any other provision of law, permit applications for uranium mining shall not be accepted by any agency of the Commonwealth prior to July 1, ~~1983~~ 1984 and until a program for permitting uranium mining is established by statute. For the purpose of construing § 45.1-180 (a) of this Code, uranium mining shall be deemed to have a significant effect on the surface.

Article 2.

Uranium Administrative Group; Functions.

§ 45.1-285.1. Findings; declaration of policy.—The General Assembly finds: (i) that while uranium mining and milling activity can generate substantial benefits, it also raises a wide range of environmental and other local concerns; and (ii) that a preliminary study, identifying many potential environmental and other effects of uranium development and describing procedures and responsibilities that the Commonwealth and a proponent would be obligated to accept if development were to proceed, has not identified any environmental or public health concern that could preclude uranium development in Virginia.

The General Assembly further finds, however, that a possibility exists that certain impacts of uranium development activity may reduce or potentially limit certain uses of Virginia environment and resources, and that therefore additional evaluation of the costs and benefits of such activity is necessary before a final decision can be made regarding its

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acceptability in the Commonwealth. The General Assembly encourages private industry to participate in further studies and analyses of the costs and benefits of uranium mining and milling activity in the Commonwealth. Evaluation of these costs and benefits will be enhanced by further studies pertaining to Pittsylvania County where preliminary study has focused and where uranium development activity is currently contemplated by proponents.

The General Assembly emphasizes that uranium mining and milling activity presents issues of great concern to the public. It therefore encourages public participation in the deliberations concerning these issues.

§ 45.1-285.2. Definitions.—The following words shall have the meanings respectively ascribed thereto:

"Commission" shall mean the Virginia Coal and Energy Commission.

"Decommissioning" shall mean the process by which mining, milling and tailings management operations are terminated and the associated facilities removed or rendered inactive.

"Group" shall mean the Uranium Administrative Group established in § 45.1-285.3 of this Code.

"Milling" shall mean the operation by which uranium ore is processed or treated to extract uranium.

"Mining" shall mean any activity meeting the definition of mining in § 45.1-180 (a) of Chapter 16 of this title. For the purpose of construing § 45.1-180 (a) of Chapter 16 of this title, uranium mining shall be construed to have a significant effect on the surface.

"Person" shall mean any individual, firm, corporation, partnership, association or other legal entity.

"Reclamation" shall mean any activity meeting the definition of reclamation in § 45.1-180 (k) of Chapter 16 of this title.

"Tailings" shall mean the residue remaining after extraction of uranium from uranium ore whether or not the residue is left in piles, but shall not include ore bodies or ore stock piles. "Tailings management" means the methods by which tailings are handled, stored or disposed of.

§ 45.1-285.3. Uranium Administrative Group.—In order to effectuate the provisions of this Chapter, there is created a Uranium Administrative Group which shall be composed of the following: the Chairman of the Commission or his designee, who shall also serve as Chairman of the Group; the Administrator of the Council on the Environment or her designee; the Executive Director of the State Water Control Board; the Executive Director of the State Air Pollution Control Board; the Commissioner of the State Board of Health; the Director of the Department of Conservation and Economic Development; the Commissioner of the Department of Agriculture and Consumer Services; the Director of the Division of Industrial Development; one member to be designated by the local governing body of Pittsylvania County; one member to be designated by the local governing body of Halifax County; two members to be designated by the Chairman of the Commission from the State at large and two members to be designated by the Governor from the State at large.

§ 45.1-285.4. Employment of consultants; other support.—In performing the duties established in this article, the Group shall have the authority to employ consultants and each state agency representative shall designate one or more individuals from the respective agencies to assist in the administrative functions necessitated by the duties established in this chapter. For purposes of the performance of these duties, the individuals shall be directly responsible to the Chairman of the Group.

§ 45.1-285.5. Duties of the Group.—The Group shall perform the following duties:
 A. Review, comment on and approve any proposals submitted by persons for studying the effects of uranium development activity at specific sites in Pittsylvania County to determine whether such study proposals address each of the statutory criteria established by § 45.1-285.6 of this article.

B. Evaluate, in light of the statutory criteria established by § 45.1-285.6 of this Code and with the aid of independent consultants, and participation by the public, if appropriate, any study submitted by private parties which analyzes the effects of uranium development activity at specific sites in Pittsylvania County.

Amended by 590, 1984

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(c) Every application for a driver's license shall, on and after July 1, 1969, include a color photograph of the applicant supplied under arrangements made therefor by the Department. Such photograph shall be processed by the Department so that the photograph may be made part of the issued license and so that the year the photograph was taken is indicated thereon. Such photographs, for applicants under twenty-one years of age, shall be profile photographs; such photographs, for applicants twenty-one years of age and older, shall be front face view photographs.

(d) Notwithstanding the provisions of subsection (c), the first and subsequent photographs for persons under twenty-one years of age shall be profile photographs until the original issued license has expired.

(e) Notwithstanding the provisions of § 46.1-357, on and after January 1, 1984, every unlicensed applicant for a driver's license who is under nineteen years of age shall furnish the Department with satisfactory proof of the applicant's successful completion of a driver education program approved by the State Department of Education, which shall include instruction concerning alcohol and drug abuse. Such instruction shall be developed by the Department of Education in cooperation with the Virginia Alcohol Safety Action Program and the Department of Mental Health, Mental Retardation and Substance Abuse Services.

§ 46.1-370. Qualifications of school bus driver; examination.—No person shall drive any school bus upon a highway in this Commonwealth unless such person has had a reasonable amount of experience in driving motor vehicles, and shall have satisfactorily passed a special examination pertaining to the ability of such person to operate a school bus with safety to the school children thereon and to other persons using the highways. *Such person shall obtain a commercial driver's license with the applicable classifications and endorsements, issued pursuant to the Virginia Commercial Driver's License Act (§ 46.1-372.1 et seq.), if the school bus he drives is a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act.* For the purpose of preparing for the examination required by this section, any person holding a valid driver's license issued under the provisions of § 46.1-369, may operate, under the direct supervision of a person holding a valid school bus license endorsement, a school bus which contains no pupil passengers, provided that, on and after April 1, 1992, only persons holding a valid commercial driver's license or instruction permit issued under the provisions of the Virginia Commercial Driver's License Act, may operate, under the direct supervision of a person holding a valid commercial driver's license with a school bus endorsement, a school bus which is a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act and which contains no pupil passengers. The Department of Motor Vehicles shall adopt such rules and regulations as may be necessary to provide for the examination of persons desiring to qualify to drive such buses in this Commonwealth and for the granting of permits to qualified applicants.

§ 46.1-371. Designation of persons to examine applicants for licenses; conduct of examination; reports.—The Commissioner shall designate such persons within this Commonwealth as he shall see fit to act for the Department for the purpose of examining applicants for driver's licenses. Any such person so designated or appointed shall conduct examinations of applicants for driver's licenses under the provisions of this chapter title and make a written report of findings and recommendations upon such examination to the Department.

Article 4.1.

Commercial Driver's Licenses.

§ 46.1-372.1. Title.—This Act may be cited as the "Virginia Commercial Driver's License Act."

§ 46.1-372.2. Statement of intent and purpose.—The purpose of this Act is to improve the safety of commercial motor vehicle operations in the Commonwealth and to implement in Virginia the applicable provisions of the federal Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as amended. It is intended that the adoption of this Act, in conjunction with the adoption of similar legislation in all other states, will improve the safety of commercial motor vehicle operations in Virginia and in the United States by (i) permitting commercial drivers to hold only one driver's license and to have only one driving record; (ii) disqualifying drivers from the operation of commercial motor vehicles for

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certain offenses and violations; and (iii) strengthening licensing and testing standards for commercial drivers.

§ 46.1-372.3. Conflicts; supplement to driver licensing statutes.—This article is intended to supplement, not supplant, the laws of the Commonwealth relating to drivers, driver licensing, vehicles and vehicle operations, which laws shall continue to apply to persons required to be licensed pursuant to this article, unless the context clearly indicates otherwise. To the extent that any provisions of this article conflict with such other laws of the Commonwealth, the provisions of this article shall prevail. Where this article is silent, such other laws shall apply.

Notwithstanding the provisions of § 46.1-180, the governing bodies of counties, cities or towns shall not be authorized to adopt ordinances that are substantially similar to the provisions of this article.

§ 46.1-372.4. Definitions.—Notwithstanding any other provision of the laws of the Commonwealth, the following definitions shall apply to this article, unless a different meaning is clearly required by the context:

“Commercial driver’s license” means any driver’s license issued to a person in accordance with the provisions of this article, or if the license is issued by another state, any license issued to a person in accordance with the federal Commercial Motor Vehicle Safety Act, which authorizes such person to drive a commercial motor vehicle of the class and type and with the restrictions indicated on the license.

“Commercial motor vehicle” means: Except for those vehicles specifically excluded in this subsection, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating or a gross combination weight rating of 26,001 or more pounds; or (ii) is designed to transport sixteen or more passengers including the driver; or (iii) is of any size and is used in the transportation of hazardous materials and is required to be placarded under the federal Hazardous Materials Regulations (49 C.F.R. Part 172, Subpart F). Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following shall be excluded from the definition of commercial motor vehicle: any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities; or any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and which is used exclusively for farm use, as defined in § 46.1-154.3, (ii) is used to transport either agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the operation of a common or contract motor carrier and (iv) is used within 150 miles of the farmer’s farm; or any military vehicle when operated by active duty military personnel, or members of the military reserves or national guard when on active duty, in the pursuit of military purposes; or any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental functions.

“Commercial Motor Vehicle Safety Act” means the federal Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law 99-570, as amended.

“Conviction” means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail or collateral deposited to secure the person’s appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated, or, for the purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an administrative determination of a violation. For the purposes of this definition, an administrative determination shall include an unvacated certification or finding by an administrative or authorized law-enforcement official that a person has violated a provision of law.

“Disqualification” means a prohibition against driving, operating or being in physical control of a commercial motor vehicle for a specified period of time, imposed by a court or a magistrate, or by an authorized administrative or law-enforcement official or body.

“Domicile” means a person’s true, fixed and permanent home and principal residence, to which he intends to return whenever he is absent.

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"Permanent foster care placement" means the place of residence in which a child resides and in which he or she has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he or she reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis;

"Person" means any natural person, or any association, partnership or corporation;

"Unauthorized placement activity" means any assistance provided to a parent, legal guardian or prospective adoptive family in locating or effecting the placement of a child or placing a child, or performing any combination of these activities, in an adoptive home or foster home by any person other than a local board of public welfare or social services or duly authorized child-placing agency, or the advertisement or solicitation to perform any of the above activities by other than a local board of public welfare or social services or duly authorized child-placing agency. Unauthorized placement activity shall not include the counseling of any person with respect to the options available and the procedures that must be followed to place a child for adoption or to adopt a child.

§ 63.1-205. Where child-placing agencies may place children; investigation and visitation; supervision.— (a) A. Any licensed child-placing agency may place or negotiate and arrange for the placement of children in any licensed child caring institution, and, unless its license contains a limitation to the contrary, a licensed child-placing agency may also place or arrange for the placement of such persons in any suitable foster home or independent living placement .

(b) B. Before placing or arranging for the placement of any such child in a foster home or independent living placement the agency shall cause a careful study to be made to determine the suitability of such home or independent placement , and after placement shall cause such home or independent placement and child to be visited as often as necessary to protect the interests of such child.

(c) C. Every child-placing agency which places a child in a foster home or independent living placement shall maintain such supervision over such home or independent living placement as shall be required by the standards and policies established by the Board.

2. That § 63.1-205.1 of the Code of Virginia is repealed.

CHAPTER 308

An Act to amend the Code of Virginia by adding in Chapter 7 of Title 46.1 an article numbered 7, consisting of sections numbered 46.1-550.5:39 through 46.1-550.5:41, relating to motor vehicle dealer advertising.

[H 1397]

Approved March 20, 1989

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 7 of Title 46.1 an article numbered 7, consisting of sections numbered 46.1-550.5:39 through 46.1-550.5:41, as follows:

Article 7.

Motor Vehicle Dealer Advertising.

§ 46.1-550.5:39 Legislative findings.—Whereas the purchase of a motor vehicle is often the second largest purchase made by the average consumer; and, whereas the business of retail sales of motor vehicles is highly competitive; and, whereas, advertising for the retail sale of motor vehicles is intensive and often specialized; and, whereas, it is in the interest

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of the consuming public and legitimate motor vehicle dealers to insure that the advertising of the sale of motor vehicles is honest, fair, and clear, the General Assembly of Virginia hereby finds that deceptive or misleading advertising of the retail sales of motor vehicles should be prohibited. The General Assembly further finds that the Commissioner of the Department of Motor Vehicles has the expertise and experience in licensing of motor vehicle dealers and, therefore, the Commissioner shall be solely responsible for the enforcement of this act. The authority granted in this article shall be in addition to and not a substitute for the powers and authority granted pursuant to the provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

§ 46.1-550.5:40 Regulated advertising practices.—For purposes of this chapter, a violation of the following regulated advertising practices shall be an unfair, deceptive, or misleading act or practice.

1. A vehicle shall not be advertised as new, either by word or implication, unless it is one which conforms to the requirements of § 46.1-516.

2. When advertising any vehicle which does not conform to the definition of "new" as provided in § 46.1-516, the fact that it is used shall be clearly and unequivocally expressed by the term "used" or by such other term as is commonly understood to mean that the vehicle is used. By way of example but not by limitation, "special purchase" by itself is not a satisfactory disclosure; however, such terms as "demonstrator" or "former leased vehicles" used alone clearly express that the vehicles are used for advertising purposes.

3. Advertisement of finance charges or other interest rates shall not be used when there is a cost to buy-down said charge or rate which is passed on, in whole or in part, to the purchaser.

4. Terms, conditions, and disclaimers shall be stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but shall not be used as a means of contradicting or changing the meaning of an advertised statement.

5. The expiration date of an advertised sale shall be clearly and conspicuously disclosed.

6. The term "list price," "sticker price," or "suggested retail price" and similar terms, shall be used only in reference to the manufacturer's suggested retail price for new vehicles or the dealer's own usual and customary price for used vehicles.

7. Terms such as "at cost," "below cost," "\$ off cost" shall not be used in advertisements because of the difficulty in determining a dealer's actual net cost at the time of the sale. Terms such as "invoice price," "\$ over invoice," may be used, provided that the invoice referred to is the manufacturer's factory invoice or a bona fide bill of sale and the invoice or bill of sale is available for customer inspection.

"Manufacturer's factory invoice" means that document supplied by the manufacturer to the dealer listing the manufacturer's charge to the dealer before any deduction for holdback, group advertising, factory incentives or rebates, or any governmental charges.

8. When the price or credit terms of a vehicle are advertised, the vehicle shall be fully identified as to year, make, and model. In addition, in advertisements placed by individual dealers and not line-make marketing groups, the stated price or credit terms shall include all charges which the buyer must pay to the seller, except buyer-selected options, state and local fees and taxes.

9. Advertisements which set out a policy of matching or bettering competitors' prices shall not be used unless the terms of the offer are specific, verifiable and reasonable.

10. Advertisements of "dealer rebates" shall not be used. This does not affect advertisement of manufacturer rebates.

11. In a negotiated sale no "free," or words to that effect, offer of equipment, accessory, other merchandise or service shall be made. No equipment, accessory, other merchandise or service shall be described as "free" if its cost, or any part of its cost, is included in the price of the vehicle, or if the vehicle can be purchased for a lesser price without such equipment.

12. "Bait" advertising, in which an advertiser may have no intention to sell at the price or terms advertised, shall not be used. By way of example, but not by limitation:

a. If a specific vehicle is advertised, the seller shall be in possession of a reasonable

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 4

An Act to amend and reenact § 2.1-51.27; to amend the Code of Virginia by adding in Chapter 1 of Title 51.1 articles numbered 1.1, 2.1, and 3.1, consisting of sections numbered 51.1-124.1 through 51.1-124.35; and to repeal Articles 1, 2, and 3 (§§ 51.1-100 through 51.1-124) of the Code of Virginia, relating to the structure, governance, and investment policy of the Virginia Retirement System; penalty.

[H 194]

Approved February 28, 1994

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-51.27 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 51.1 articles numbered 1.1, 2.1, and 3.1, consisting of sections numbered 51.1-124.1 through 51.1-124.35 as follows:

§ 2.1-51.27. Agencies for which responsible.

The Secretary of Administration shall be responsible to the Governor for the following agencies: Department of Information Technology, Council on Information Management, Department of Personnel and Training, Department of General Services, Compensation Board, ~~Virginia Retirement System~~, Secretary of the Commonwealth, Department of Employee Relations Counselors, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees, and Commission on Local Government. The Governor may, by executive order, assign any other state executive agency to the Secretary of Administration, or reassign any agency listed above to another secretary.

Article 1.1.

General Provisions.

§ 51.1-124.1. *Legislative intent and purposes.*

Article X, Section 11 of the Constitution of Virginia requires the General Assembly to maintain a state employees' retirement system, subject to restrictions and conditions prescribed by the General Assembly, that shall be administered in the best interests of the beneficiaries thereof. Pursuant to this constitutional duty, the General Assembly hereby finds and declares that all present and future members of the Retirement System are entitled to a retirement system whose governing structure and institutional organization foster public confidence and trust in its investment practices, policy decisions, and administrative operations. To that end and for the purposes of providing adequate benefits and pensions to members, encouraging stable employer contribution rates, and ensuring the overall soundness of the Retirement System, the General Assembly hereby establishes the Virginia Retirement System as an independent agency of the Commonwealth, exclusive of the legislative, executive, and judicial branches of government, in the following provisions.

§ 51.1-124.2. *Virginia Supplemental Retirement System continued as Virginia Retirement System.*

The Virginia Supplemental Retirement System, a body corporate and a retirement system for teachers, state employees, and employees of participating political subdivisions, shall be continued as the Virginia Retirement System. Wherever the term "Virginia Supplemental Retirement System" appears in the Code of Virginia, it shall mean the Virginia Retirement System.

§ 51.1-124.3. *Definitions.*

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

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1990, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) or if a member dies in service prior to retirement, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his thirty-six highest consecutive months of creditable service or during the entire period of his creditable service if less than thirty-six months. If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest

[VA., 1952

CHS. 694, 695, 696]

ACTS OF ASSEMBLY

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Be it enacted by the General Assembly of Virginia:

1. That the governing body of any county containing within its boundaries a city of the first class and two incorporated towns having populations in excess of three thousand inhabitants shall have power, whenever in its judgment the same is necessary for the preservation of the public health, to regulate the keeping of swine by any person within one hundred yards of any residence.
2. An emergency exists and this act is in force from its passage.

CHAPTER 695

An Act to amend and reenact § 33-119 of the Code of Virginia, relating to the erection and maintenance of gates across private roads by landowners and providing for relief in certain cases of hardship.

[H 693]

Approved April 7, 1952

Be it enacted by the General Assembly of Virginia:

1. That § 33-119 of the Code of Virginia be amended and reenacted as follows:

§ 33-119. Any person owning land over which another or others have a private road or right of way may, except when it is otherwise provided by contract, erect and maintain gates across such roads or right of way at all points at which fences extend to such roads on each side thereof; provided, however, that a court of competent jurisdiction may, upon petition, where it is alleged and proved by petitioner that the gates have been willfully and maliciously erected, may require the said landowner to make such changes therein as may be necessary and reasonable in the use of said roads for both the landowner and the petitioner.

CHAPTER 696

An Act to prevent interruption or suspensions in the operation of certain public utilities, and to that end to declare it to be the public policy of the State that the functioning and operation of such utilities are clothed with a public interest and are essential to the health, safety and welfare of the citizens of Virginia; to authorize the Governor to take possession of and operate on behalf of the State public utilities and to prescribe the terms and conditions of such taking possession of and operation, and the power, authority and duty of the Governor with respect thereto; to provide how any such utility may be returned to private management and control; to declare certain acts unlawful; and to impose penalties.

[H 704]

Approved April 7, 1952

Be it enacted by the General Assembly of Virginia:

1. § 1. The continuous, uninterrupted and proper functioning and operation of public utilities engaged in the business of furnishing water, light, heat, gas, electric power, transportation or communication, or any one or more of them, to the people of Virginia are hereby declared to be essential to their welfare, health and safety. It is contrary to the public policy of the State to permit any substantial impairment or suspension of the operation of any such utility and it is the duty of the Government of the State to exercise all available means and every power at its command to prevent the same so as to protect its citizens from any dangers, perils, calamities or catastrophes which would result therefrom. It is therefore further declared that such utilities are clothed with a vital public interest and to protect the same it is necessary that impairment or suspension of the operation of any such utility for any reason be prevented to the extent and by the means hereinafter provided.

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member's term of office, the remaining members shall fill the vacancy for the unexpired term shall be filled pursuant to Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2 .
2. That the provisions of this act shall become effective on December 1, 1993, and shall take effect only upon the repeal of Title 24.1 and enactment of Title 24.2 of the Code of Virginia.

CHAPTER 732

An Act to amend and reenact §§ 56-537 and 56-543 of the Code of Virginia, relating to the Virginia Highway Corporation Act of 1988.

[S 608]

Approved March 28, 1993

Be it enacted by the General Assembly of Virginia:
1. That §§ 56-537 and 56-543 of the Code of Virginia are amended and reenacted as follows:
§ 56-537. Policy.—The General Assembly finds that there is a compelling public need for rapid construction of safe and efficient highways for the purpose of travel within the Commonwealth, and that it is in the public interest to encourage construction of additional, safe, convenient, and economic highway facilities by private parties, provided that adequate safeguards are provided against default in the construction and operation obligations of the operators of roadways. The public interest shall include without limitation the relative speed of the construction of the project and the relative cost efficiency of private construction of the project. The General Assembly further finds that the use of public funds for the purposes set forth in this section is in the public interest. Accordingly, the General Assembly finds that this chapter is necessary for the public convenience, safety and welfare.
§ 56-543. Powers and duties of roadway operator.—A. The operator shall have all power allowed by law generally to persons having the same form of organization as the operator, including, without limitation, the authority to operate the roadway and charge tolls for the use thereof, and may pledge any revenue net of operational expenses realized from tolls charged for the use of the roadway in order to secure repayment of any obligations incurred for the construction, enlargement or operation of such roadway. Any financing of the acquisition, construction, enlargement, or operation of the roadway may be in such amounts and upon such terms and conditions as may be deemed necessary or appropriate by the operator to provide for the acquisition, construction, enlargement, and operation of the roadway, issuance costs, other financing obligations, and reasonable reserves. The Commonwealth shall not obligate its full faith and credit on any financing of the operator. Assumption of operation of the project shall not obligate the Commonwealth to pay any obligation of the operator whether secured or otherwise, from sources other than toll revenue. Subject to applicable permit requirements, the operator shall have the authority to cross any canal or navigable watercourse so long as the crossing does not unreasonably interfere with navigation and use of the waterway. In operating the roadway, the operator may:
1. Classify traffic according to reasonable categories for assessment of tolls; and
2. With the consent of the Department, make and enforce reasonable regulations, including regulations:
a. Which set maximum and minimum speeds that shall conform to Department and state practices;
b. Which exclude undesirable vehicles or cargoes or materials from the use of the roadway; or
c. Which establish commuter lanes for use during all or any part of a day and limit the use of such lanes to certain traffic.
3. The enumeration of powers in this subsection shall not limit the power of the operator to do anything it deems necessary and appropriate in the operation of the roadway, provided that the practice is reasonable and nondiscriminatory. The powers granted to the operator in this subsection shall not be deemed to limit the authority of the Commission to regulate the operator under Title 56.
B. The operator shall have the following duties:
1. It shall file and maintain at all times with the Commission an accurate schedule of rates charged to the public for use of all or any portion of the roadway and it shall also file and maintain a statement that such rates will apply uniformly to all users within any such reasonable classification as the operator may elect to implement. These rates shall be neither applied nor collected in a discriminatory fashion, and free vehicular passage shall be permitted

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Article 4.

Special Assessment for Land Preservation.

§ 58.1-3229. Declaration of policy.—An expanding population and reduction in the quantity and quality of real estate devoted to agricultural, horticultural, forest and open space uses make the preservation of such real estate a matter vital to the public interest. It is, therefore, in the public interest (a) to encourage the preservation and proper use of such real estate in order to assure a readily available source of agricultural, horticultural and forest products and of open spaces within reach of concentrations of population, to conserve natural resources in forms which will prevent erosion, to protect adequate and safe water supplies, to preserve scenic natural beauty and open spaces and to promote land-use planning and the orderly development of real estate for the accommodation of an expanding population, and (b) to promote a balanced economy and ameliorate pressures which force the conversion of such real estate to more intensive uses and which are attributable in part to the assessment of such real estate at values incompatible with its use and preservation for agricultural, horticultural, forest or open space purposes.

It is the intent of this article to provide for the classification, and permit the assessment and taxation, of such real estate in a manner that will promote the preservation of it ultimately for the public benefit.

§ 58.1-3230. Special classifications of real estate established and defined.—For the purposes of this article the following special classifications of real estate are established and defined:

"Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services; or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

"Real estate devoted to forest use" shall mean land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the Department of Conservation and Economic Development pursuant to the authority set out in § 58.1-3240.

"Real estate devoted to open-space use" shall mean real estate used as to be provided or preserved for park or recreational purposes, conservation of land or other natural resources, floodways, historic or scenic purposes, or assisting in the shaping of the character, direction, and timing of community development, under uniform standards prescribed by the Department of Conservation and Economic Development pursuant to the

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ACTS OF ASSEMBLY

C. 646

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CH. 64'

effect of exceeding or violating the limitations and conditions provided herein or by county, city or town ordinance shall nullify any preferential tax rate for the remainder of the current taxable year and the taxable year immediately following. However, any locality may by ordinance provide a prorated preferential tax rate for the portion of the taxable year during which the taxpayer qualified for such rate.

§ 58.1-3506.8. Designation by General Assembly.—The General Assembly hereby deems those persons falling within the limitations and conditions provided in §§ 58.1-3506.1 and 58.1-3506.2 of this article to be bearing an extraordinary tax burden on certain tangible personal property in relation to their income and financial worth.

CHAPTER 647

An Act to amend and reenact § 58.1-608 of the Code of Virginia, relating to retail sales and use tax exemptions.

[S 524]

Approved April 3, 1991

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-608 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-608. Exclusions and exemptions.— A. The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Governmental and commodities exemptions:

a. Motor vehicle fuels which are subject to the tax imposed by Chapter 21 (§ 58.1-2100 et seq.). Persons who are refunded any such motor fuel tax or special fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

b. Motor vehicles, trailers, and semitrailers, mobile homes and travel trailers.

c. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

d. Alcoholic beverages sold by the Virginia Alcoholic Beverage Control Board through its government stores.

e. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States.

f. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.) of this title.

g. Motor fuels and special fuels for use in a boat or boats or a ship or ships, upon which a motor fuel tax is refunded pursuant to § 58.1-2113, and upon which a special fuel tax is refunded pursuant to § 58.1-2122.

h. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia, or of any county, city or town.

i. Materials furnished by the State Board of Elections pursuant to subdivision (8), (9), or (10) of § 24.1-23.

j. Watercraft as defined in § 58.1-1401.

k. Tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a marine terminal or terminals on behalf of the Authority.

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Board.

CHAPTER 14.

UNIFORM ACT ON ADOPTION AND MEDICAL ASSISTANCE.

§ 63.2-1400. Findings and purposes.

A. The legislature finds that locating adoptive families for children for whom state assistance is desirable pursuant to the Virginia State Adoption Assistance Law, and ensuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state. Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

B. The purposes of this Act are to authorize the Governor to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Department and to provide procedures for interstate children's adoption assistance payments, including medical payments.

§ 63.2-1401. Compacts authorized.

The Governor is authorized to develop, participate in the development of, negotiate and enter into one or more interstate compacts on behalf of this Commonwealth with other states to implement one or more of the purposes set forth in this chapter. When so entered into, and for so long as it remains in force, the compact shall have the force and effect of law.

§ 63.2-1402. Definitions.

For the purposes of this chapter:

"Adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

"Residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

§ 63.2-1403. Contents of compacts.

A. A compact entered into pursuant to the authority conferred by this chapter shall have the following content:

1. A provision making it available for joinder by all states.
2. A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of one year between the date of the notice and the effective date of the withdrawal.
3. A requirement that the protections afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who, on the effective date of the withdrawal, are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode.
4. A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the child welfare agency of the state which undertakes to provide the adoption assistance, and further, that any such agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance.

5. Such other provisions as may be appropriate to implement the proper administration of the compact.

B. A compact entered into pursuant to the authority conferred by this chapter may contain the following provisions in addition to those required pursuant to subsection A:

1. Provisions establishing procedures and entitlements to medical, developmental, child care or other social services for the child in accordance with applicable laws, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the costs thereof.

2. Such other provisions as may be appropriate or incidental to the proper administration of the compact.

§ 63.2-1404. Medical assistance.

A. A child with special needs resident in this Commonwealth who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance identification from this Commonwealth upon the filing in the Department of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the Department, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

B. The Department of Medical Assistance Services shall consider the holder of medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this Commonwealth and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients

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of medical assistance.

C. The Department shall provide coverage and benefits not provided by the state plan for medical assistance in the residence state for a child who is in another state and who is covered by an adoption assistance agreement made in Virginia to the extent required by the agreement. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The Department of Medical Assistance Services shall adopt regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services for which there is no federal financial contribution or which, if federally aided, are not provided by the residence state. Such regulations shall include procedures to be followed in obtaining prior approvals for services when such approval is required for the assistance.

D. The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine of not more than \$10,000, or imprisonment for not more than two years, or both.

E. The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this Commonwealth under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this Commonwealth. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this Commonwealth shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

§ 63.2-1405. Federal participation.

Consistent with federal law, the Department and the Department of Medical Assistance Services, in connection with the administration of this chapter and any compact pursuant hereto, shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Titles IV (e) and XIX of the Social Security Act, as amended, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the costs. The Departments shall apply for and administer all relevant federal aid in accordance with law.

CHAPTER 15.

CHILD ABUSE AND NEGLECT.

Article I.

General Provisions.

§ 63.2-1500. Policy of the Commonwealth.

The General Assembly declares that it is the policy of this Commonwealth to require reports of suspected child abuse and neglect for the purpose of identifying children who are being abused or neglected, of assuring that protective services will be made available to an abused or neglected child in order to protect such a child and his siblings and to prevent further abuse or neglect, and of preserving the family life of the parents and children, where possible, by enhancing parental capacity for adequate child care.

§ 63.2-1501. Definitions.

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

"Court" means the juvenile and domestic relations district court of the county or city.

"Prevention" means efforts that (i) promote health and competence in people and (ii) create, promote and strengthen environments that nurture people in their development.

§ 63.2-1502. Establishment of Child-Protective Services Unit; duties.

There is created a Child-Protective Services Unit in the Department that shall have the following powers and duties:

1. To evaluate and strengthen all local, regional and state programs dealing with child abuse and neglect.
2. To assume primary responsibility for directing the planning and funding of child-protective services. This shall include reviewing and approving the annual proposed plans and budgets for protective services submitted by the local departments.
3. To assist in developing programs aimed at discovering and preventing the many factors causing child abuse and neglect.
4. To prepare and disseminate, including the presentation of, educational programs and materials on child abuse and neglect.
5. To provide educational programs for professionals required by law to make reports under this chapter.
6. To establish standards of training and provide educational programs to qualify workers in the field of child-protective services.
7. To establish standards of training and educational programs to qualify workers to determine whether complaints of abuse or neglect of a child in a private or state-operated hospital, institution or

Organizational Outline for Proposed Title 23.1

SUBTITLE I.

GENERAL PROVISIONS AND THE STATE COUNCIL FOR HIGHER EDUCATION FOR VIRGINIA

Chapter		Definitions and general provisions. *reference to compacts?
Chapter		State Council for Higher Education for Virginia.
	Article	Membership and organization.
	Article	Powers and duties.
	Article	Regulation of certain private and out-of-state institutions.
Chapter		The Virginia Higher Education Opportunity Act of 2011.

SUBTITLE II.

STUDENTS AND CAMPUS

Chapter		General provisions
	Article	Students generally.
	Article	Student records.
Chapter		Tuition eligibility.
Chapter		Financial Assistance.
	Article	General provisions.
	Article	Institution, agency, and program-specific scholarships.
	Article	Unfunded scholarships.
	Article	Nursing scholarships.
	Article	Dental hygienist scholarships.
	Article	Community College Incentive Scholarship Program and Fund.
	Article	Two-year College Transfer Grant Program.
	Article	Tuition Assistance Grant Act.
	Article	Virginia Guaranteed Assistance Program and Fund.
	Article	Advantage Virginia Incentive Program, Foundation, and Fund.
	Article	Institutional loans.
	Article	Senior citizens.
Chapter		Virginia College Savings Plan
Chapter		Health and Campus Safety.
	Article	Student health.
	Article	Emergency management.
	Article	Campus police departments.
Chapter		Academic Policies.
	Article	Programs of instruction.
	Article	Course credit.
	Article	Articulation, transfer, and dual enrollment.
	Article	College Partnership Laboratory Schools.

SUBTITLE III.**MANAGEMENT AND FINANCING.**

Chapter		Restructured Higher Edu. Financial & Administrative Operations Act.
Chapter		Institutions; bonds.
Chapter		Virginia College Building Authority.
	Article	General Provisions; membership; organization.
	Article	Powers and duties; bonds; equipment.
	Article	Educational facilities.

SUBTITLE IV.**PUBLIC INSTITUTIONS OF HIGHER EDUCATION**

Chapter		Governing Boards
	Article	Membership
	Article	Powers, duties, and governance.
	Article	Reporting requirements.
	Article	Property.
Chapter		Christopher Newport University.
Chapter		George Mason University.
Chapter		James Madison University.
Chapter		Longwood University.
Chapter		University of Mary Washington.
Chapter		Norfolk State University.
Chapter		Old Dominion University.
	Article	General provisions.
	Article	Center for Graduate and Undergraduate Studies.
Chapter		Radford University.
Chapter		University of Virginia.
	Article	General provisions.
	Article	Medical Center.
	Article	University of Virginia's College at Wise.
Chapter		Virginia Commonwealth University.
	Article	General provisions.
	Article	Medical Center.
	Article	Virginia Center on Aging.
Chapter		Virginia Commonwealth University Health System Authority.
Chapter		Virginia Military Institute.
	Article	General provisions.
	Article	Cadets.
Chapter		Virginia Polytechnic and State University.
	Article	General Provisions.
	Article	Governmental Aid and Individual Donations.
	Article	Roanoke Technical Institute.
	Article	Clifton Forge-Covington Branch.

	Article	Wytheville Branch.
	Article	Nautical School.
	Article	Virginia Center for Coal and Energy Research.
	Article	Virginia Water Resources Research Center.
	Article	Virginia Center for Housing Research.
	Article	Virginia Cooperative Extension, Agricultural Experiment Station, and Virginia Truck and Ornamentals Research Station.
Chapter		Virginia State University
Chapter		College of William and Mary.
Chapter		State Board for Community Colleges and Community College System.
	Article	Definitions.
	Article	Membership and management.
	Article	Powers and duties.

SUBTITLE V.

OTHER EDUCATIONAL INSTITUTIONS

Chapter		Eastern Virginia Medical School.
Chapter		Educational authorities, boards, centers, consortia, institutes.
	Article	A.L. Philpott Manufacturing Extension Partnership.
	Article	Commonwealth Health Research Board and Fund.
	Article	Institute for Advanced Learning and Research
	Article	New College Institute.
	Article	Roanoke Higher Education Authority.
	Article	Southern Higher Virginia Education Center.
	Article	Southwest Virginia Higher Education Center.
	Article	Virginia Universities Clean Energy Development and Economic Stimulus Foundation.
	Article	Christopher Reeve Stem Cell Research Fund.
	Article	Miller School of Albemarle.
Chapter		Museums and Other Cultural Entities.
	Article	Frontier Culture Museum.
	Article	Gunston Hall.
	Article	Jamestown-Yorktown Foundation.
	Article	Science Museum of Virginia.
	Article	Virginia Museum of Fine Arts.
	Article	Virginia Commission for the Arts, Virginia Arts Foundation.

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~~CHAPTER 22.~~

~~COMMONWEALTH HEALTH RESEARCH FUND.~~

CHAPTER 5.3.

COMMONWEALTH HEALTH RESEARCH BOARD AND FUND.

Drafting note: Existing Chapter 22 (§ 23-277 et seq.) is reorganized as proposed Chapter 5.3 of Title 32.1.

~~§ 23-277. Definitions.~~

~~As used in this chapter, unless the context clearly indicates otherwise:~~

~~"Board" means the Commonwealth Health Research Board.~~

~~"Council" means the State Council of Higher Education for Virginia.~~

~~"Fund" means the Commonwealth Health Research Fund.~~

Drafting note: The definitions are either reincorporated in § 32.1-162.24 (where "Board" and "Fund" are defined for this proposed chapter) or stricken as obsolete ("Council" is defined but not used in the Chapter).

~~§ 23-278.~~ 32.1-162.23. Commonwealth Health Research Board ~~created~~ established.

A. ~~There is hereby created, as an independent body, the~~ The Commonwealth Health Research Board ~~(the Board) is established as an independent body.~~ The purpose of the Board ~~shall be~~ is to provide financial support; ~~from the Commonwealth Health Research Fund (the Fund)~~ in the form of grants, donations, or other assistance; for research efforts that have the potential of maximizing human health benefits for the citizens of the Commonwealth. Research efforts eligible for support by the Board shall include traditional medical and biomedical research ~~relating to the causes and cures of diseases as well as research~~ related to health services ~~and,~~ the delivery of health care, and the causes and cures of diseases.

B. The Board shall be composed of seven members. ~~The, of whom three shall be appointed by the~~ appointed by the Governor ~~shall appoint three members of the Board who shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The~~

27 and four shall be appointed by the Joint Rules Committee ~~shall appoint the other four members~~
28 ~~of the Board who shall be confirmed by the affirmative vote of a majority of those voting in~~
29 ~~each house of.~~ All appointments to the Board are subject to confirmation by the General
30 Assembly. ~~The initial members shall be appointed for terms of office as follows: one of the~~
31 ~~members appointed by the Governor shall be appointed for a term of one year; one of the~~
32 ~~members appointed by the Joint Rules Committee shall be appointed for a term of two years;~~
33 ~~one of the members appointed by the Governor and one of the members appointed by the Joint~~
34 ~~Rules Committee shall be appointed for terms of three years; one of the members appointed by~~
35 ~~the Joint Rules Committee shall be appointed for a term of four years; and one of the members~~
36 ~~appointed by the Governor and one of the members appointed by the Joint Rules Committee~~
37 ~~shall be appointed for terms of five years.~~ Appointments ~~thereafter~~ shall be for terms of five
38 years. Appointments to fill vacancies, other than by expiration of a term, shall be for the
39 unexpired terms. Vacancies ~~in the membership of the Board~~ shall be filled ~~by appointment of~~
40 ~~the entity initially making the appointment for the unexpired portion of the term in the same~~
41 manner as the original appointments.

42 No member shall ~~be eligible to for~~ serve more than two ~~successive~~ consecutive five-year
43 terms; however, ~~after the expiration of a term of four years or less or after the expiration of the~~
44 ~~remainder of a term to which he was appointed to fill a vacancy, two additional terms may be~~
45 ~~served by such member if appointed thereto. Immediately after such appointment, the members~~
46 ~~shall enter upon the performance of their duties.~~ a member appointed to serve an unexpired term
47 shall be eligible to serve two consecutive five-year terms.

48 C. ~~The members~~ Members of the Board shall have substantial experience or expertise,
49 personal or professional, in at least one of the following areas: medicine, medical or scientific
50 research, public policy, government, business, or education. No member shall be an incumbent
51 elected official, state official ~~or,~~ state employee, or member of the governing board of a state
52 agency or institution. Members of the Board need not be residents of the Commonwealth.

53 D. The ~~members~~ Board shall elect annually a chairman and vice-chairman from among
54 its ~~members~~ membership. The chairman, or in his absence, the vice-chairman, shall preside at
55 all meetings of the Board.

56 E. A majority of the members of the Board serving at any one time shall constitute a
57 quorum for the transaction of business.

58 F. The Board shall meet annually or more frequently at the call of the chairman.

59 ~~E. Notwithstanding the provisions of § 2.2-2813, members of the Board shall receive~~
60 ~~compensation for their services at the rate provided in Item 1 of Chapter 924 of the 1997 Acts of~~
61 ~~Assembly used to compensate General Assembly members for the time actually spent in the~~
62 ~~discharge of their duties and shall receive reimbursement for actual expenses incurred in the~~
63 ~~performance of their duties on behalf of the Board.~~ G. The members of the Board shall receive
64 no compensation for their services but shall be reimbursed for the reasonable and necessary
65 expenses incurred in the performance of their duties as provided in § 2.2-2825. Such
66 compensation and expenses shall be paid from the Fund.

67 **Drafting note: The first sentence of subsection E of existing § 23-278 is stricken as**
68 **obsolete. Members of the Board do not receive such compensation for their services but**
69 **are still reimbursed for reasonable and necessary expenses. Technical changes are also**
70 **made.**

71 ~~§ 23-279~~ 32.1-162.24. Duties of the Board.

72 The Board shall ~~perform the following duties~~:

73 1. Establish specific criteria and procedures governing its decisions to support research
74 efforts consistent with its purposes, including, ~~but not limited to~~, (i) encouraging collaborative
75 research efforts among two or more institutions or organizations, (ii) giving priority to those
76 research efforts ~~where from which~~ Board support can be leveraged to foster contributions from
77 federal agencies or other entities, and (iii) supporting both new research efforts and the
78 expansion or continuation of existing research efforts;

79 2. Establish requirements for the submission of research proposals, including, ~~but not~~
80 ~~limited to~~, (i) a clear statement of the problem or opportunity to be addressed; (ii) the specific
81 objectives; (iii) a description of how the results will maximize human health benefits for the
82 citizens of the Commonwealth; (iv) a budget for the research effort, including other anticipated
83 sources of financial assistance; and (v) the time frame for ~~the conduct of~~ conducting the
84 research;

85 3. Evaluate the proposals in accordance with the criteria established by the Board and the
86 provisions of this chapter; and

87 4. Evaluate the implementation and results of all research efforts receiving support from
88 the Board.

89 **Drafting note: The phrase "but not limited to" is removed when using the term**
90 **"including" based on § 1-218, which states "'Includes' means includes, but not limited to."**

91 **Technical changes are made.**

92 § ~~23-281~~ 32.1-162.25. Powers of the Board.

93 In order to carry out its ~~purpose~~ purposes, the Board ~~shall have the power to~~ may:

94 1. Make grants ~~or other expenditures or~~ and disbursements from the Fund ~~to provide that~~
95 support ~~for~~ research efforts approved by the Board in accordance with the purposes of this
96 chapter; ~~however, the~~ and pay expenditures from the Fund that are necessary to carry out the
97 purposes of this chapter. The Board shall not be obligated to make annual or other periodic
98 disbursements or expenditures;

99 2. Contract for the services of consultants to review research proposals and ~~to~~ assist in
100 the evaluation of the research efforts funded by the Board;

101 3. Contract for other professional services to assist the Board in the performance of its
102 duties and responsibilities;

103 4. Accept, hold, administer, and solicit gifts, grants, bequests, contributions, or other
104 assistance from federal agencies, the Commonwealth, or any other public or private source to
105 carry out the purposes of this chapter;

106 5. Enter into any agreement or contract relating to the acceptance or use of any grant,
107 assistance, or support provided by or to the Board, or otherwise in furtherance of the purposes of
108 this chapter;

109 6. Perform any lawful acts necessary or appropriate to carry out the purposes of the
110 Board; and

111 7. Employ such staff as is necessary to perform the Board's duties. The Board may
112 determine the duties of such staff and fix the salaries and compensation of such staff, which
113 shall be paid from the Fund. Such staff shall be employees of the Department of Accounts and
114 shall be entitled to all benefits available to state employees as provided by law.

115 **Drafting note: Technical changes.**

116 § ~~23-280~~ 32.1-162.26. Conditions and restrictions on financial assistance.

117 A. The Board shall provide financial support only ~~to~~ for research efforts that satisfy the
118 following conditions:

119 1. The research shall be conducted by ~~state~~ public institutions of higher education,
120 agencies of the Commonwealth, or nonprofit organizations exempt from income taxation
121 pursuant to § 501(c)(3) of the Internal Revenue Code and located in the Commonwealth;

122 2. The institution, agency, or organization shall ~~provide a cash amount for the support~~
123 provided by the Board in such match a percentage of the Board's support ~~as in a cash amount~~
124 required by the Board ~~deems appropriate~~;

125 3. Support provided by the Board shall not be used by the recipient to finance capital
126 improvements or renovations, for indirect costs incurred by the institution, agency, or
127 organization in its administration of the financial support, or for any other purpose proscribed by
128 the Board; and

129 4. Recipients of support provided by the Board shall agree to provide the Board with
130 such information regarding the implementation of the research effort; and ~~to~~ allow such
131 monitoring and review of the research effort; as may be required by the Board to ensure
132 compliance with the terms ~~by~~ under which the support is provided.

133 B. Any support provided by the Board shall be used by the recipient only for personal
134 services, contractual services, material, supplies, and equipment directly related to the approved
135 research effort.

136 **Drafting note: Technical changes.**

137 § ~~23-283~~ 32.1-162.27. Cooperation with other agencies.

138 All agencies of the Commonwealth shall cooperate with the Board and, upon request,
139 assist the Board in the performance of its duties and responsibilities.

140 **Drafting note: No change.**

141 § ~~23-284~~ 32.1-162.28. Commonwealth Health Research Fund established;
142 administration.

143 A. There is hereby created in the ~~State Treasury~~ state treasury a special; nonreverting
144 revolving fund to be known as the Commonwealth Health Research Fund. The Fund shall be
145 established on the books of the ~~State~~ Comptroller.

146 B. The Fund shall consist of all stock and cash distributed to the Commonwealth as a
147 policyholder pursuant to the conversion of Blue Cross and Blue Shield of Virginia, doing
148 business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a Virginia
149 stock corporation known as Trigon Healthcare, Inc., exclusive of cash paid by Blue Cross and
150 Blue Shield of Virginia or its successor to the Commonwealth in connection with such
151 conversion, which was assumed as general fund revenue in Chapter 912 of the 1996 Acts of
152 Assembly. The Fund shall also consist of any moneys appropriated from the general fund,
153 grants and donations received by the Board, and other moneys received by the State Treasurer
154 and designated for deposit in the Fund. Interest and other income earned on moneys in the Fund

155 shall remain in the Fund and be credited to ~~the Fund it~~. Any moneys remaining in the Fund,
156 including interest and other income thereon, at the end of each fiscal year shall not revert to the
157 general fund but shall remain in the Fund.

158 C. Notwithstanding any other provision of law, the moneys and other property
159 comprising constituting the Fund shall be invested, reinvested, and managed by the Board of the
160 Virginia Retirement System as provided in § 51.1-124.36. The State Treasurer shall not be held
161 liable for losses suffered by the Virginia Retirement System on investments made under the
162 authority of this section.

163 D. ~~The Moneys in the~~ Fund shall be expended solely for the purpose of supporting
164 research efforts approved by the Board and any other purpose permitted by this chapter.

165 E. An amount not to exceed six percent of the moving average of the market value of the
166 Fund calculated over the previous five years or since inception, whichever is shorter, on a one-
167 year delayed basis, net of any administrative fee assessed pursuant to subsection E of § 51.1-
168 124.36, may be expended in a calendar year for any purpose permitted by this chapter. The
169 Board shall not be required to expend such amount in a calendar year, and any amount up to
170 such six percent that is not expended in a calendar year may be expended in any other calendar
171 year.

172 F. ~~The disbursement of moneys~~ Expenditures and disbursements from the Fund shall be
173 made by the State Treasurer on warrants issued by the ~~State~~ Comptroller ~~at the upon~~ written
174 request ~~of signed by~~ the chairman of the Board.

175 **Drafting note: Technical changes.**

176 § ~~23-285 32.1-162.29~~. Forms Form and audit of accounts and records; ~~audit of same~~.

177 A. The accounts and records of the Board showing the receipt and disbursement of funds
178 from whatever source derived shall be in such form as the Auditor of Public Accounts
179 prescribes.

180 B. The accounts and records of the Board shall be subject to an annual audit by the
181 Auditor of Public Accounts or his legal representative.

182 **Drafting note: Technical changes.**

183 ~~§ 23-286 32.1-162.30. Reports to the Governor and General Assembly Annual report.~~

184 The Board shall submit a report annually to the Governor and the General Assembly.
185 The report shall include information regarding research efforts supported by the Board and
186 expenditures from the Fund.

187 **Drafting note: Technical changes.**

188 CHAPTER 31.

189 OTHER EDUCATIONAL ENTITIES.

190 **Drafting note: Other educational entities, existing Chapters 16.1, 16.2, 16.3, 16.4,**
191 **16.5, and 16.6, of Title 23, are reorganized as articles within proposed Chapter 31.**

192 Article 1.

193 General Provisions.

194 § 23.1-xxx. Governing boards of educational institutions; removal of members.

195 A. Notwithstanding any other provision of law, the Governor may remove from office
196 for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board
197 of any educational institution established pursuant to this chapter and fill the vacancy resulting
198 from the removal.

199 B. The Governor shall set forth in a written public statement his reasons for removing
200 any member pursuant to subsection A at the time the removal occurs. The Governor shall be the
201 sole judge of the sufficiency of the cause for removal as set forth in subsection A.

202 **Drafting note: The provisions of this proposed section are moved from subsections**
203 **A and C of § 2.2-108.**

204 ~~CHAPTER 16.2.~~

205 ~~A.L. PHILPOTT MANUFACTURING EXTENSION PARTNERSHIP.~~

206 Article 2.

207 Genedge Alliance.

208 **Drafting note: Existing Chapter 16.2 (§ 23-231.8 et seq.) is reorganized as proposed**
209 **Article 2 of Chapter 31. A substantive change is made to update the name of the A.L.**
210 **Philpott Manufacturing Extension Partnership to Genedge Alliance to reflect current**
211 **usage.**

212 ~~§ 23-231.8 23.1-xxx. A. L. Philpott Manufacturing Extension Partnership created~~
213 Genedge Alliance established; mission purpose and duties.

214 A. The ~~A. L. Philpott Manufacturing Center, established from such funds as may be~~
215 ~~appropriated or provided pursuant to Chapters 217 and 668 of the 1992 Acts of Assembly, as~~
216 ~~amended, is hereby continued and redesignated the A. L. Philpott Manufacturing Extension~~
217 ~~Partnership, referred to in this chapter as the Extension Partnership. The mission of the~~
218 ~~Extension Partnership is~~ Genedge Alliance (the Alliance), formerly known as the A.L. Philpott
219 Manufacturing Extension Partnership, is established to help create and maintain industrial and
220 manufacturing jobs. The ~~Extension Partnership Alliance~~ shall:

221 1. Develop, demonstrate, test, and assist in the implementation of advanced
222 manufacturing technologies;:

223 2. Promote industrial expansion by providing manufacturing technology consulting
224 services to manufacturers in Virginia;:

225 3. Foster the creation of manufacturing networks and the development of buyer and
226 supplier relationships in the region and throughout the Commonwealth;:

227 4. Serve as a resource center for industrial training and technology transfer programs for
228 the renewal, enhancement, and expansion of existing manufacturing enterprises and ~~for~~
229 manufacturing modernization outreach;:

230 5. Be available as a federal demonstration center for the training of displaced workers in
231 a any manufacturing area;: and

232 6. Receive and accept any available grants, from any federal, state, or private agency,
233 corporation, association, or person, to be expended in accomplishing the goals duties
234 enumerated in ~~subdivisions 1 through 5 above~~ this subsection.

235 B. The ~~Extension Partnership Alliance~~ shall be considered a local or regional industrial
236 or economic development authority or organization for purposes of the Virginia Freedom of
237 Information Act (§ 2.2-3700 et seq.).

238 **Drafting note: Technical changes.**

239 § ~~23-231.9 23.1-xxx~~. ~~Membership of governing board; terms; compensation; officers;~~
240 ~~bylaws~~ Board of trustees.

241 A. The ~~Extension Partnership Alliance~~ shall be governed by a 24-member board of
242 trustees (the board) consisting of three presidents of community colleges; two presidents of
243 four-year public ~~four-year~~ institutions of higher education, ~~and~~ one president of a four-year
244 private ~~four-year~~ institution of higher education, and 15 nonlegislative citizen members,
245 representing manufacturing industries, to be appointed by the Governor; and the director of the
246 Center for Innovative Technology; the Secretary of Commerce and Trade; and and the
247 Secretary of Technology, to serve ex officio with voting privileges.

248 B. ~~Initial appointments in 1992 shall be as follows: the three community college~~
249 ~~presidents shall be appointed for two-year, three-year, and four-year terms, respectively; the two~~
250 ~~presidents of the public four-year institutions shall be appointed for two-year and four-year~~
251 ~~terms, respectively; the president of a private four-year institution shall be appointed for a three-~~
252 ~~year term; two citizen members shall be appointed for two-year terms, and two citizen members~~
253 ~~shall be appointed for three-year and four-year terms, respectively. Of the five citizen members~~
254 ~~to be appointed in 1994, two shall be appointed for two-year terms, two shall be appointed for~~
255 ~~three-year terms, and one shall be appointed for a four-year term. Of the six citizen members to~~
256 ~~be appointed in 1997, two shall be appointed for two-year terms, two shall be appointed for~~
257 ~~three-year terms, and two shall be appointed for four-year terms. Thereafter, all appointments~~

258 Appointments shall be for terms of four years, ~~except that appointments to fill vacancies. Ex~~
259 officio members of the board shall serve terms coincident with their terms of office.
260 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
261 terms. Vacancies shall be filled in the same manner as the original appointments. All members
262 may be reappointed. ~~With the exceptions of the director of the Center for Innovative~~
263 ~~Technology, the Secretary of Commerce and Trade, and the Secretary of Technology, no person~~
264 ~~shall be eligible to~~ No member shall serve ~~for~~ more than two ~~successive~~ consecutive four-year
265 terms; however, ~~upon the expiration of a term of less than four years, or after the expiration of~~
266 ~~the remainder of a term to which appointed to fill a vacancy, two additional terms may be~~
267 ~~served by such member if appointed thereto~~ a member appointed to serve an unexpired term
268 shall be eligible to serve two consecutive four-year terms.

269 C. The board shall elect a chairman and a vice-chairman from among its ~~members and~~
270 membership. The board shall ~~also~~ elect a secretary and a treasurer; who ~~may or may need~~ not be
271 members of the board. The board may ~~also~~ elect other subordinate officers; who ~~may or may~~
272 need not be members of the board.

273 D. Eight members shall constitute a quorum. The meetings of the board shall be held at
274 the call of the chairman or whenever the majority of the members so request.

275 ~~All members shall be reimbursed for their actual expenses incurred in the performance~~
276 ~~of their duties in the work of the Extension Partnership.~~

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

280 **Drafting note: The second paragraph of subsection C is stricken here the concept is**
281 **instead reincorporated into proposed § 23.1-xxx (the succeeding section). A substantive**
282 **change is made in subsection D of this proposed section to establish a quorum for the**
283 **meetings of the board at eight members, which is lower than a majority. The Code was**

284 previously silent on the quorum required for meetings of this organization. Technical
285 changes are also made.

286 [§ 23.1-xxx. Compensation; expenses.](#)

287 [All members shall be reimbursed for all reasonable and necessary expenses incurred in](#)
288 [the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs](#)
289 [of compensation and expenses of the members shall be provided by the Alliance.](#)

290 **Drafting note: Provisions on expenses of members, previously set forth in the**
291 **second paragraph of subsection C of existing § 23-231.9, have been updated and**
292 **incorporated instead into proposed section 23.1-xxx (this section).**

293 ~~§ 23-231.10~~ [23.1-xxx](#). Executive director; ~~powers and duties; staff.~~

294 A. The board shall appoint an executive director who shall (i) supervise and manage the
295 ~~Extension Partnership Alliance~~, (ii) ~~discharge perform~~ such functions as may be directed by the
296 board, and (iii) prepare and submit, upon ~~the~~ direction and approval ~~by of~~ the board, all requests
297 for appropriations. The executive director shall be authorized to employ such staff as necessary
298 to enable the ~~Extension Partnership Alliance~~ to perform its duties as set forth in this ~~chapter~~
299 ~~article~~. The board is authorized to determine staff duties and ~~to~~ fix salaries and compensation
300 from such funds as may be appropriated or received. In addition, the board is authorized to
301 make arrangements with institutions of higher education to extend course credit to graduate
302 students employed by the ~~Extension Partnership Alliance~~.

303 B. Additional staff support for the functions of the ~~Extension Partnership Alliance~~ may
304 be provided by the Center for Innovative Technology, the University of Virginia Center for
305 Public Service, ~~community colleges and four-year public~~ institutions of higher education, small
306 business development centers, and private businesses.

307 **Drafting note: Technical changes.**

308 ~~§ 23-231.11~~ [23.1-xxx](#). ~~Additional powers and duties~~ [Powers of the board.](#)

309 ~~To assist the Extension Partnership in its mission, the board is authorized on behalf of~~
310 ~~the Extension Partnership to:~~ In order to carry out the purposes of the Alliance, the board may:

311 1. Apply for, accept, and expend gifts, grants, or donations from public or private
312 sources to enable the ~~Extension Partnership~~ Alliance to carry out its ~~objectives~~ purposes;

313 2. Fix, alter, charge, and collect rates, fees, and other charges for the sale of products of,
314 ~~or and~~ services rendered by the ~~Extension Partnership~~ Alliance at rates ~~to be~~ determined by ~~it~~
315 the board to pay the expenses of the ~~Extension Partnership~~ Alliance;

316 3. Make and enter into all contracts or agreements ~~which are~~ necessary or incidental to
317 the performance of its duties and ~~to~~ the execution of powers granted by this ~~chapter~~ article,
318 including agreements with any federal agency, person, private firm, or other organization that
319 can provide technical or other business assistance to the ~~Extension Partnership's~~ Alliance's
320 industrial clients;

321 4. Employ, ~~at its discretion~~, consultants, researchers, architects, engineers, accountants,
322 financial experts, investment bankers, superintendents, managers, and such other employees and
323 agents as may be necessary; and ~~to~~ fix their compensation to be payable from funds made
324 available to the ~~Extension Partnership~~ Alliance;

325 5. Render advice and assistance and provide services to state and federal agencies, local
326 and regional economic development entities, private firms, and other persons or organizations
327 providing services or facilities for small and medium-sized manufacturers and industrial firms in
328 ~~Virginia~~ the Commonwealth;

329 6. Develop and provide programs or projects, ~~at its discretion~~, alone or in cooperation
330 with any person; state or federal agency; state, local, or regional economic development entity;
331 private firm; or other organization for economic development through improvements in
332 industrial competitiveness in ~~Virginia~~ the Commonwealth; and

333 7. Do all acts and things necessary or convenient to carry out the powers granted to it by
334 this ~~chapter~~ article or any other ~~acts~~ act.

335 **Drafting note: Technical changes.**

336 § ~~23-231.12~~ 23.1-xxx. Cooperation of other agencies; legal services.

337 A. All agencies of the Commonwealth shall cooperate with the ~~Extension Partnership~~
338 Alliance and, upon request, assist the ~~Extension Partnership Alliance~~ in the performance of its
339 duties and responsibilities.

340 B. The Attorney General shall provide legal services for the ~~Extension Partnership~~
341 Alliance pursuant to Chapter 5 (§ 2.2-500 et seq.) of Title 2.2.

342 **Drafting note: Technical changes.**

343 ~~CHAPTER 16.4.~~

344 ~~INSTITUTE FOR ADVANCED LEARNING AND RESEARCH.~~

345 Article 3.

346 Institute for Advanced Learning and Research.

347 **Drafting note: Existing Chapter 16.4 (§ 23-231.19 et seq.) is reorganized as**
348 **proposed Article 3 of Chapter 31.**

349 § ~~23-231.19~~ 23.1-xxx. Institute for Advanced Learning and Research ~~created~~
350 established; responsibilities duties.

351 ~~A. With such funds as are appropriated or made available for this purpose, there is~~
352 ~~hereby created and constituted, in Southside Virginia, a political subdivision of the~~
353 ~~Commonwealth to be known as the~~ The Institute for Advanced Learning and Research;
354 ~~hereinafter referred to as the "Institute." The Institute shall be founded by Averett University,~~
355 ~~Danville Community College, and Virginia Polytechnic Institute and State University (the~~
356 Institute) is established in Southside Virginia as a political subdivision of the Commonwealth.

357 B. The Institute shall:

358 1. Seek to diversify the economy of the Dan River ~~Region's economy region~~ by engaging
359 the resources of Virginia Polytechnic Institute and State University in partnership with Danville

360 Community College and Averett University and public and private bodies and organizations of
361 the region and ~~state.~~ Commonwealth;

362 2. Serve as a catalyst for economic and community transformation by leveraging and
363 brokering resources that support the economic diversity ~~for~~ of the Dan River region, particularly
364 within the network economy.;

365 3. Provide a site for the development of the technology and trained workforce necessary
366 for new economic enterprises to flourish in Southside Virginia through the teaching, research,
367 outreach, and technology available from its partner institutions.;

368 4. Expand access to higher education in Southside Virginia by providing for adult and
369 continuing education, workforce training and development, and degree-granting programs,
370 including undergraduate, graduate, and professional programs, through partnerships with the
371 Commonwealth's private and public institutions of higher education, the City of Danville, the
372 County of Pittsylvania, the public schools, and the public and private sectors in the region.;

373 5. Serve as a resource and hub for network-related initiatives ~~in education,~~ at all levels,
374 of education and in economic development activities.;

375 6. Assist in regional economic and community development efforts by housing and
376 encouraging research and product-related activities and encouraging high technology economic
377 development in the region.;

378 7. Encourage and coordinate, as appropriate, the development and delivery of programs
379 offered by ~~those~~ the educational institutions serving the region.;

380 8. Serve as a resource and referral center by maintaining and disseminating information
381 on existing educational programs, research, and university outreach resources.

382 **Drafting note: Technical changes.**

383 § ~~23-231.20~~ 23.1-xxx. Board of trustees; ~~membership; appointments; terms;~~
384 compensation and expenses; officers.

385 A. The Institute shall be governed by a 15-member ~~Board of Trustees consisting board~~
386 ~~of trustees (the board) that shall consist~~ of ~~the presidents or their designees of Averett~~
387 ~~University, Danville Community College, and Virginia Polytechnic Institute and State~~
388 ~~University; the chairman or his designee of the Board of the Future of the Piedmont Foundation;~~
389 ~~11 nonlegislative citizen members and four ex officio members. Nonlegislative citizen members~~
390 ~~shall be appointed as follows:~~ one resident of the City of Danville, to be appointed by the
391 Danville City Council; one resident of Pittsylvania County, to be appointed by the Pittsylvania
392 County Board of Supervisors; and nine ~~citizens~~ nonlegislative citizen members representing
393 business and industry and residing in Southside Virginia, of whom three to shall be appointed
394 by the Governor, three ~~to shall~~ be appointed by the Senate Committee on Rules, and three ~~to~~
395 shall be appointed by the Speaker of the House of Delegates. The presidents of Averett
396 University, Danville Community College, and Virginia Polytechnic Institute and State
397 University or their designees and the chairman of the Board of the Future of the Piedmont
398 Foundation or his designee shall serve ex officio with voting privileges. All Nonlegislative
399 citizen members ~~appointed of the board~~ shall be nonelected citizens of the Commonwealth.

400 B. ~~The presidents or their designees of the named institutions of higher education and the~~
401 ~~chairman or his designee of the Board of the Future of the Piedmont Foundation~~ Ex officio
402 members of the board shall serve terms coincident with their terms of office. ~~Of the initial~~
403 ~~citizen appointments to be made in 2004, one appointee each by the Governor, the Speaker of~~
404 ~~the House of Delegates, and the Senate Committee on Rules shall serve for one year terms and~~
405 ~~one appointee each by the Governor, the Speaker of the House of Delegates, and the Senate~~
406 ~~shall serve for two year terms. After the initial staggering of terms, all citizen appointments~~
407 Appointments shall be for terms of three years, ~~except that appointments to fill vacancies.~~
408 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
409 terms. Vacancies shall be ~~for the unexpired terms~~ filled in the same manner as the original
410 appointments.

411 No citizen member ~~of the Board~~ shall ~~be eligible to~~ serve more than two ~~successive~~
412 consecutive three-year terms; however, ~~after expiration of a term of less than three years, or~~
413 ~~after the remainder of a three-year term to which a member was appointed to fill a vacancy, a~~
414 ~~member may serve two additional three-year terms, if so appointed~~ a member appointed to serve
415 an unexpired term shall be eligible to serve two consecutive three-year terms.

416 C. The Board board shall elect a chairman and vice-chairman from among its ~~members~~
417 membership and may establish bylaws as necessary.

418 D. Members of the Board board shall not be entitled to receive compensation. All
419 members shall be reimbursed for all reasonable and necessary expenses incurred in the
420 performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the cost of
421 expenses of the members shall be provided by the Institute.

422 **Drafting note: Technical changes.**

423 § ~~23-231.21~~ 23.1-xxx. Powers ~~and duties of Board; contracts for educational services of~~
424 the board.

425 A. The ~~Board of Trustees shall have~~ board has, in addition to its other powers, all the
426 corporate powers given to corporations by the provisions of Title 13.1, except in those cases
427 where, by the express terms of its provisions, the law is confined to corporations created under
428 that title. The ~~Board board shall also have the power to~~ may accept, execute, and administer any
429 trust in which it may have an interest under the terms of the instrument creating the trust.

430 B. The ~~Board shall have the authority to~~ board may enter into and administer agreements
431 with institutions of higher education in the Commonwealth to provide continuing education and
432 instructional programs at the Institute through both traditional and electronic modes of delivery.

433 § ~~23-231.23~~. Gifts, grants, and donations; cooperation with other agencies.

434 C. The Board board may, on behalf of the Institute, apply for, accept, and expend gifts,
435 grants, or donations from public or private sources to enable it to carry out the purposes of this
436 chapter article.

437 D. The ~~Board board~~ may ~~also~~ request and accept the cooperation of ~~agencies of~~ the
438 Commonwealth ~~or~~, the local ~~governments governing bodies~~ located in Southside Virginia, ~~or~~
439 the agencies of the Commonwealth or such governing bodies in the performance of its duties.

440 **Drafting note: The provisions of existing § 23-231.23 are incorporated as**
441 **subsections C and D of this proposed section, which includes broader provisions related to**
442 **powers of the board. Technical changes are made.**

443 § ~~23-231.22~~ 23.1-xxx. Executive director; ~~responsibilities; additional staff support~~.

444 The ~~Board board~~ may appoint an executive director ~~for of~~ the Institute, who may be an
445 employee of ~~one of the founding institutions of higher education~~ Averett University, Danville
446 Community College, or Virginia Polytechnic Institute and State University. The executive
447 director shall supervise and manage the Institute and shall prepare and submit, upon direction
448 and approval by the ~~Board board~~, all budgets and requests for appropriations. ~~During the initial~~
449 ~~development and implementation phase of the Institute, additional staff support for the functions~~
450 ~~of the Institute may be provided upon agreement by the founding institutions and local~~
451 ~~governments~~.

452 **Drafting note: Technical changes and removal of language concerning the initial**
453 **development of the Institute.**

454 ~~CHAPTER 16.6.~~

455 ~~THE NEW COLLEGE INSTITUTE.~~

456 Article 4.

457 New College Institute.

458 **Drafting note: Existing Chapter 16.6 (§ 23-231.3 et seq.) is reorganized as proposed**
459 **Article 4 of Chapter 31.**

460 § ~~23-231.30~~ 23.1-xxx. ~~The~~ New College Institute ~~created~~ established; ~~responsibilities~~
461 duties.

462 A. ~~With such funds as are appropriated or made available for this purpose, there is~~
463 ~~hereby created and constituted, in the area of Martinsville and Henry County, Virginia, an~~
464 ~~educational institution of the Commonwealth to be known as the~~ New College Institute,
465 ~~hereinafter referred to as New College~~ (New College) is established as an educational institution
466 of the Commonwealth in the area of the City of Martinsville and Henry County.

467 B. New College shall:

468 1. Seek to diversify the region's economy by engaging the resources of other institutions
469 of higher education, public and private bodies, and organizations of the region and ~~state.~~
470 Commonwealth;

471 2. Serve as a catalyst for economic and community transformation by leveraging and
472 brokering resources that support economic diversity.;

473 3. Facilitate development of the technology and trained workforce necessary for new
474 economic enterprises to flourish, using the resources available from collaborating educational
475 institutions.;

476 4. Expand educational opportunities in the region by providing access to degree-granting
477 programs, including undergraduate, graduate, and professional programs, through partnerships
478 with ~~private and~~ public and private institutions of higher education, the public schools, and the
479 public and private sectors.;

480 5. Encourage and coordinate the development and delivery of degree programs and other
481 credit and noncredit courses with a focus on statewide and regional critical shortage areas as
482 well as the needs of industry. ~~This~~ Such programs and courses shall include needed adult
483 education and workforce training.;

484 6. Serve as a resource and referral center by maintaining and disseminating information
485 on existing educational programs, research, and university outreach and technology resources;
486 and

487 7. Direct the development and focus of the New College curriculum to include
488 appropriate degree and nondegree programs offered by other institutions of higher education.

489 **Drafting note: The provisions of existing § 23-231.33 are incorporated as**
490 **subdivision 7 of subsection B of this proposed section, which includes broader provisions**
491 **related to board duties. Technical changes are made.**

492 ~~§ 23-231.33. Curriculum.~~

493 ~~The Board shall direct the development and focus of New College's curriculum. The~~
494 ~~curriculum shall include appropriate degree and nondegree programs offered by other~~
495 ~~educational institutions. New College shall enroll students by the fall semester of 2007 or as~~
496 ~~soon as practicable.~~

497 **Drafting note: The provisions of existing § 23-231.33 are stricken here and**
498 **incorporated instead as subdivision B 7 of proposed § 23.1-31xx in this article.**

499 ~~§ 23-231.31 23.1-xxx. Board of Directors; membership; appointments; terms;~~
500 ~~compensation; officers directors.~~

501 A. New College shall be governed by a ~~Board of Directors~~ board of directors (the board)
502 consisting of 12 members that shall consist of five legislative members and seven nonlegislative
503 citizen members. Members ~~of the Board~~ shall be appointed as follows: three members of the
504 House of Delegates to be appointed by the Speaker of the House of Delegates in accordance
505 with the rules of proportional representation contained in the Rules of the House of Delegates;
506 and two members of the Senate to be appointed by the Senate Committee on Rules; seven
507 nonlegislative members to be appointed by the Governor, subject to ~~the approval of~~
508 confirmation by the General Assembly; ~~three members to be appointed by the Speaker of the~~
509 ~~House of Delegates in accordance with the rules of proportional representation in the Rules of~~
510 ~~the House; and two members to be appointed by the Senate Committee on Rules.~~ Of the 12
511 members, ~~no more than two may be nonresidents~~ at least 10 shall be residents of the
512 Commonwealth.

513 Legislative members shall serve terms coincident with their terms of office. ~~Beginning~~
514 ~~with the 2006-2007 fiscal year or for the first fiscal year of the Commonwealth in which funds~~
515 ~~are appropriated for the purposes of this chapter, whichever is later, of the Governor's initial~~
516 ~~appointments to the Board, two shall be appointed for terms of four years, two for terms of three~~
517 ~~years, two for terms of two years, and one for a term of one year. Notwithstanding any other~~
518 ~~provision of this chapter, each of the Governor's initial appointees may be appointed to one~~
519 ~~additional successive four-year term. After the initial staggering of terms, all nonlegislative~~
520 ~~citizen appointments~~

521 B. Nonlegislative citizen members shall be appointed for terms of four years, ~~except that~~
522 ~~appointments to fill vacancies shall be for the unexpired terms. Appointments to fill vacancies,~~
523 other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in
524 the same manner as the original appointments. All members may be reappointed.

525 No nonlegislative citizen member ~~of the Board~~ shall be eligible to serve more than two
526 ~~suecessive consecutive~~ four-year terms, but after the expiration of the remainder of a term to
527 ~~which appointed to fill a vacancy, two additional four-year terms may be served by such~~
528 ~~member if appointed thereto; however, a member appointed to serve an unexpired term shall be~~
529 eligible to serve two consecutive four-year terms.

530 B. C. ~~The Board~~ board shall elect a chairman and vice-chairman from among its
531 ~~members membership~~ and may establish bylaws as necessary. A majority of the members shall
532 constitute a quorum. The meetings of the board shall be held at the call of the chairman or
533 whenever the majority of the members so request.

534 C. D. Nonlegislative citizen members shall not be entitled to compensation for their
535 services. Legislative members of the ~~Board~~ board shall be compensated as provided in § 30-
536 19.12, ~~and all.~~ All members ~~of the Board~~ shall be reimbursed for all reasonable and necessary
537 expenses incurred in the performance of their duties in the work of New College as provided in

538 §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the
539 members shall be provided by New College.

540 **Drafting note: Technical changes, including adding the standard language for a**
541 **quorum and how meetings are called.**

542 § ~~23-231.32 23.1-xxx. Powers and duties of Board; contracts for educational services~~
543 Powers of the board.

544 A. The ~~Board of Directors~~ board shall have, in addition to its other powers, all the
545 corporate powers given to corporations by the provisions of Title 13.1, except in those cases
546 where, by the express terms of its provisions, the law is confined to corporations created under
547 that title. The ~~Board~~ board shall ~~also~~ have the power to accept, execute, and administer any trust
548 in which it may have an interest under the terms of the instrument creating the trust.

549 B. The ~~Board~~ board shall oversee the educational programs of New College and ~~also~~
550 ~~have the authority to~~ may enter into and administer agreements with institutions of higher
551 education for ~~them~~ such institutions to provide continuing education, instructional programs,
552 and degree programs at New College.

553 § ~~23-231.34. Sale, etc., of real estate.~~

554 C. The ~~Board~~ board, with the approval of the Governor ~~first obtained, is hereby~~
555 ~~authorized to,~~ may lease, sell, and convey any and all real estate to which New College has
556 acquired title by gift, devise, or purchase ~~since the commencement of New College under any~~
557 ~~previous names, or which may hereafter be conveyed or devised to it.~~ The proceeds derived
558 from any such lease, sale, or conveyance shall be held by New College upon the identical trusts,
559 and subject to the same uses, limitations, and conditions, if any, that are expressed in the
560 original deed or will under which its title has derived; ~~or if.~~ If there ~~be~~ are no such trusts, uses,
561 limitations, or conditions expressed in such original deed or will, then such funds shall be
562 applied by the ~~Board~~ board to such purposes as it may deem best for New College.

563 § ~~23-231.36. Gifts, grants, and donations; cooperation with other agencies.~~

564 D. The ~~Board~~ board may, on behalf of New College, apply for, accept, and expend gifts,
565 grants, or donations from public or private sources to enable it to carry out the purposes of this
566 ~~chapter~~ article.

567 E. The ~~Board~~ board may ~~also~~ request and accept the cooperation of ~~agencies~~ of the
568 Commonwealth ~~or~~, the local governments governing bodies located in Southside Virginia, or
569 the agencies of the Commonwealth or such local governing bodies in the performance of its
570 duties.

571 **Drafting note: The provisions of existing §§ 23-231.34 and 23-231.36 are**
572 **incorporated as subsections C, D, and E of this proposed section, which includes broader**
573 **provisions related to board powers. Technical changes are made.**

574 § ~~23-231.35~~ 23.1-xxx. Executive ~~Director~~ director; ~~responsibilities~~.

575 The ~~Board~~ board shall appoint an ~~Executive Director~~ executive director of New College
576 who shall supervise and manage New College. The ~~Executive Director shall be authorized~~
577 executive director may, with the oversight of the ~~Board~~, ~~to~~, employ such staff and faculty as are
578 necessary to enable New College to perform its duties as set forth in this ~~chapter~~ article and the
579 bylaws established by the ~~Board~~ board.

580 **Drafting note: Technical changes.**

581 CHAPTER 16.3.

582 ROANOKE HIGHER EDUCATION AUTHORITY.

583 Article 5.

584 Roanoke Higher Education Authority.

585 **Drafting note: Existing Chapter 16.3 (§ 23-231.13 et seq.) is reorganized as**
586 **proposed Article 5 of Chapter 31.**

587 § ~~23-231.13~~ 23.1-xxx. Roanoke Higher Education Authority ~~created~~ established.

588 ~~With such funds as are appropriated or made available for this purpose, there is hereby~~
589 ~~created and constituted a political subdivision of the Commonwealth to be known as the~~ The

590 Roanoke Higher Education Authority, ~~hereinafter referred to as the "Authority."~~ (the Authority)
591 is established as a political subdivision of the Commonwealth.

592 **Drafting note: Technical changes.**

593 § ~~23-231.14~~ 23.1-xxx. ~~Responsibilities~~ Duties of the Authority.

594 The Authority shall:

595 1. Expand access to higher education in the Roanoke Valley by providing for adult and
596 continuing education and degree-granting programs, including undergraduate, graduate, and
597 professional programs, through partnerships with the Commonwealth's public and private
598 institutions of higher education;

599 2. Serve as a resource and referral center on existing educational programs and resources
600 by maintaining and disseminating information;

601 3. Develop, in coordination with the ~~State Council of Higher Education for Virginia,~~
602 specific goals for higher education access and availability in the Roanoke Valley; and

603 4. Accept, administer, and account for any state grant to a nonstate entity ~~which that~~ may
604 be provided in the name of the Roanoke Higher Education Center (the Center) or ~~in the name of~~
605 the ~~Roanoke Higher Education~~ Authority.

606 **Drafting note: Technical changes.**

607 § ~~23-231.15~~ 23.1-xxx. Board of ~~Trustees; appointments; terms; compensation; officers~~
608 trustees.

609 A. The Authority shall be governed by a ~~Board of Trustees~~ board of trustees (the board)
610 consisting of 22 members as follows: two members of the House of Delegates to be appointed
611 by the Speaker of the House of Delegates in accordance with the principles of proportional
612 representation contained in the Rules of the House of Delegates; one member of the Senate to be
613 appointed by the Senate Committee on Rules; the Director of the ~~State Council of Higher~~
614 ~~Education for Virginia~~ or his designee; the Chancellor of the Virginia Community College
615 System or his designee; ~~and the presidents or their designees~~ of Averett College University,

616 Bluefield College, Hollins University, James Madison University, Mary Baldwin College, Old
617 Dominion University, Radford University, Roanoke College, the University of Virginia,
618 Virginia Polytechnic Institute and State University, and Virginia Western Community College
619 or their designees; the Director of Total Action for Progress (TAP) This Valley Works; ~~two~~
620 ~~members of the House of Delegates to be appointed by the Speaker of the House of Delegates;~~
621 ~~one member of the Senate to be appointed by the Senate Committee on Rules;~~ and five
622 nonlegislative citizen members representing business and industry in the Roanoke Valley to be
623 appointed by the Governor. Nonlegislative citizen members of the Board board shall be citizens
624 of the Commonwealth and residents of the Roanoke region.

625 B. The legislative members, the Director of the ~~State Council of Higher Education for~~
626 ~~Virginia~~, the Chancellor of the Virginia Community College System, the Director of TAP This
627 Valley Works, and the presidents ~~or their designees~~ of the named institutions of higher
628 education or their designees shall serve terms coincident with their terms of office. ~~After the~~
629 ~~initial staggering of terms, all nonlegislative~~ Nonlegislative citizen members shall be appointed
630 for terms of four years, ~~except that appointments to fill vacancies.~~ Appointments to fill
631 vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall
632 be filled in the same manner as the original appointments.

633 No nonlegislative citizen member ~~of the Board~~ shall be eligible to serve more than two
634 ~~suecessive consecutive~~ four-year terms; however, ~~after the expiration of the remainder of a term~~
635 ~~to which appointed to fill a vacancy, two additional four-year terms may be served by such~~
636 ~~member, if appointed thereto~~ a member appointed to serve an unexpired term shall be eligible to
637 serve two consecutive four-year terms.

638 C. Nonlegislative citizen members shall not be entitled to compensation for their
639 services. Legislative members of the Board board shall receive such compensation as provided
640 in § 30-19.12, ~~and all.~~ All members ~~of the Board~~ shall be reimbursed for all reasonable and
641 necessary expenses incurred in the performance of their duties in the work of the Authority as

642 | provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of
643 | the members shall be provided by the Authority.

644 | D. The Board board shall elect a chairman and a vice-chairman from among its ~~members~~
645 | membership and may establish bylaws as necessary.

646 | **Drafting note: Technical changes.**

647 | § ~~23-231.16~~ 23.1-xxx. Powers ~~and duties~~ of Board of Trustees the board.

648 | A. The ~~Board of Trustees~~ board shall have, in addition to such other powers, all the
649 | corporate powers given to corporations by the provisions of Title 13.1, except in those cases
650 | where, by the express terms of its provisions, this law is confined to corporations created under
651 | that title.

652 | B. The ~~Board shall have the power to~~ board may issue bonds upon the advice of bond
653 | counsel and a financial institution with expertise in bonds and investments. Bonds issued under
654 | the provisions of this section shall not be deemed to constitute a debt or a pledge of the faith and
655 | credit of the Commonwealth or ~~of any~~ of its political ~~subdivision thereof~~ subdivisions other than
656 | the Authority.

657 | C. The Board board may accept, execute, and administer any trust in which it may have
658 | an interest under the terms of any instrument creating the trust.

659 | ~~B.-D.~~ The ~~Board shall have the authority to~~ board may lease property or ~~to~~ hold any
660 | property for which it may acquire the title and ~~to~~ dispose of such property in a manner ~~which~~
661 | that will benefit the Authority.

662 | E. The Board board may ~~also~~ enter into agreements with public and private institutions
663 | of higher education in the Commonwealth to provide adult education, continuing education,
664 | ~~undergraduate level~~ undergraduate-level education, and ~~graduate level~~ graduate-level
665 | instructional programs. The Board board may enter into agreements with local school boards
666 | and other entities to provide such programs as it deems necessary and appropriate to carry out
667 | the purposes of the Authority.

668 ~~C. F.~~ The ~~Board board~~ may establish, with such funds as are appropriated for this
669 purpose or made available to it, the ~~Roanoke Higher Education~~ Center.

670 ~~D. G.~~ Notwithstanding any provision of law to the contrary, any real estate and tangible
671 personal property held or acquired by the ~~Board board~~ shall be exempt from any prohibition of
672 the use of noncash assistance as matching funds.

673 ~~§ 23-231.18. Gifts, grants, and donations.~~

674 ~~H.~~ The ~~Board board~~ may, on behalf of the Authority or the Center, apply for, accept, and
675 direct the expenditure of gifts, grants, or donations from public or private sources to enable it to
676 carry out the purposes of this ~~chapter article~~. Any locality may make gifts and donations of real
677 property, ~~real or personal,~~ personal property, or money; to the Authority.

678 **Drafting note: The provisions of existing § 23-231.18 are incorporated as subsection**
679 **H of this proposed section, which includes broader provisions related to board powers.**
680 **Technical changes are made.**

681 ~~§ 23-231.17~~ 23.1-xxx. Executive director; staff.

682 A. From funds available for this purpose, the ~~Board board~~ may appoint an executive
683 director for the ~~Roanoke Higher Education~~ Center who shall supervise and manage the Center
684 and ~~shall~~ prepare and submit, upon direction and approval by the ~~Board board~~, all requests for
685 appropriations. The ~~Executive Director~~ executive director of the Center ~~shall be authorized to~~
686 may employ such staff as necessary to enable the Center to perform its duties as set forth in the
687 bylaws of the ~~Board of Trustees~~ board and this ~~chapter article~~. The ~~Board board~~ may determine
688 the duties of the staff and fix salaries and compensation from such funds as may be appropriated
689 or received.

690 B. Additional staff support for the functions of the Center may be provided upon
691 agreement by the participating institutions.

692 **Drafting note: Technical changes.**

693 CHAPTER 16.5.

694 ~~SOUTHERN VIRGINIA HIGHER EDUCATION CENTER.~~

695 Article 6.

696 Southern Virginia Higher Education Center.

697 **Drafting note: Existing Chapter 16.5 (§ 23-231.24 et seq.) is reorganized as**
698 **proposed Article 6 of Chapter 31.**

699 § ~~23-231.24~~ 23.1-xxx. Southern Virginia Higher Education Center ~~created~~ established;
700 duties.

701 ~~From such funds as may be appropriated, the~~ The Southern Virginia Higher Education
702 Center, ~~previously established as an off-campus center of Longwood University, (the Center)~~ is
703 ~~hereby continued~~ established as an educational institution in the Commonwealth ~~and shall be~~
704 ~~referred to in this chapter as the "Center."~~ The Center shall:

705 1. Encourage the expansion of higher education, including adult and continuing
706 education, associate, undergraduate, and graduate degree programs in the region, and foster
707 partnerships between the public and private sectors to enhance higher education in the Southside
708 region;

709 2. Coordinate the development and delivery of continuing education programs offered
710 by ~~those~~ the educational institutions serving the region;

711 3. Facilitate the delivery of teacher training programs leading to licensure and graduate
712 degrees;

713 4. Serve as a resource and referral center by maintaining and disseminating information
714 on existing educational programs and resources; and

715 5. Develop, in coordination with the ~~State~~ Council ~~of Higher Education for Virginia~~,
716 specific goals for higher education in Southside Virginia.

717 **Drafting note: Technical changes.**

718 § ~~23-231.25~~ 23.1-xxx. ~~Membership of governing board; terms; compensation; officers~~
719 Board of trustees.

720 A. The Center shall be governed by a ~~15-member Board of Trustees~~, board of trustees
721 (the board) consisting of 15 members as follows: two members of the House of Delegates to be
722 appointed by the Speaker of the House of Delegates in accordance with the principles of
723 proportional representation contained in the Rules of the House of Delegates; one member of
724 the Senate to be appointed by the Senate Committee on Rules; the Director of the ~~State~~ Council
725 ~~of Higher Education for Virginia~~ or his designee; the Chancellor of the Virginia Community
726 College System or his designee; the presidents ~~or chancellors, as appropriate, or their designees~~
727 of Longwood University, Danville Community College, and Southside Virginia Community
728 College or their designees; the division superintendent of Halifax County public schools; ~~two~~
729 ~~members of the House of Delegates to be appointed by the Speaker of the House of Delegates;~~
730 ~~one member of the Senate to be appointed by the Senate Committee on Rules;~~ and six
731 nonlegislative citizen members to be appointed by the Governor, including ~~the chairman and~~
732 two ~~other~~ members of the Halifax Education Foundation; and ~~three~~ four representatives of
733 business and industry. The Speaker of the House of Delegates may appoint an alternate for ~~the~~
734 one Delegate appointed to the ~~Center board~~. The alternate shall serve a term coincident with the
735 term of the Delegate and shall have the power to act in his absence. The Senate Committee on
736 Rules may appoint an alternate for the Senator appointed to the ~~Center board~~. The alternate shall
737 serve a term coincident with the term of the Senator and ~~shall have the power to~~ may act in his
738 absence.

739 Nonlegislative citizen members of the ~~Board~~ board shall be chosen from among
740 residents of the Southside region of the Commonwealth and shall be citizens of the
741 Commonwealth.

742 B. Legislative members and the representatives of the Council, the Virginia Community
743 College System, and the named institutions of higher education shall serve terms coincident
744 with their terms of office. ~~After the initial staggering of terms, all nonlegislative~~ Nonlegislative
745 citizen ~~appointments~~ members shall be appointed for terms of four years, ~~except that~~

746 ~~appointments to fill vacancies.~~ Appointments to fill vacancies, other than by expiration of a
747 term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the
748 original appointments.

749 No nonlegislative citizen member ~~of the Board~~ shall be eligible to serve more than two
750 ~~successive consecutive~~ four-year terms, ~~but after the expiration of the remainder of a term to~~
751 ~~which appointed to fill a vacancy, two additional four-year terms may be served by such~~
752 ~~member if appointed thereto;~~ however, a member appointed to serve an unexpired term shall be
753 eligible to serve two consecutive four-year terms.

754 C. Nonlegislative citizen members shall not be entitled to compensation for their
755 services. Legislative members of the ~~Board~~ board shall be compensated as provided in § 30-
756 19.12, ~~and all.~~ All members of the ~~Board~~ board shall be reimbursed for all reasonable and
757 necessary expenses incurred in the performance of their duties in the work of the Center as
758 provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses
759 of the members shall be provided by the Center.

760 D. The ~~Board~~ board shall elect a chairman and a vice-chairman from among its ~~members~~
761 membership.

762 **Drafting note: Technical changes are made. A substantive change is made to reduce**
763 **the number of members of the Halifax Education Foundation on the board from three to**
764 **two and increase the representatives of business and industry on the board from three to**
765 **four. § 2.2-3701 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) defines**
766 **"meeting" to include an informal assemblage of as many as three members. If the three**
767 **current members of the board of the Center were to discuss board business while**
768 **assembled at a Halifax Education Foundation meeting, such discussion could violate the**
769 **open meeting provisions of § 2.2-3707.**

770 § ~~23-231.26~~ 23.1-xxx. Powers of ~~Board; contracts for educational services~~ the board.

771 A. The ~~Board of Trustees~~ board shall have, in addition to its other powers, all the
772 corporate powers given to corporations by the provisions of Title 13.1, except in those cases
773 where, by the express terms of its provisions, it is confined to corporations created under that
774 title.

775 B. The ~~Board shall also have the power to~~ board may accept, execute, and administer
776 any trust in which it may have an interest under the terms of the instrument creating the trust.

777 B. C. The ~~Board shall have the authority to~~ board may establish and administer
778 agreements with public and private institutions of higher education for the provision of
779 associate, undergraduate, and graduate degree instructional programs at the Center.

780 ~~§ 23-231.28. Application for and acceptance of gifts and grants.~~

781 D. The ~~Board is authorized~~ board, on behalf of the Center ~~to~~, may apply for, accept, and
782 expend gifts, grants, or donations from public or private sources to enable it to carry out its
783 objectives.

784 **Drafting note: The provisions of existing § 23-231.28 are incorporated as subsection**
785 **D of this proposed section, which includes broader provisions related to board powers.**
786 **Technical changes are made.**

787 ~~§ 23-231.27~~ 23.1-xxx. Executive director; ~~powers and duties~~; staff.

788 A. The ~~Board~~ board shall appoint an executive director for the Center who shall
789 supervise and manage the Center and shall prepare and submit, upon direction and approval by
790 the ~~Board~~ board, all requests for appropriations. The ~~Executive Director of the Center~~ executive
791 director shall be authorized to employ such staff as necessary to enable the Center to perform its
792 duties as set forth in this ~~chapter~~ article. The ~~Board~~ board is authorized to determine the duties
793 of such staff and to fix salaries and compensation from such funds as may be appropriated or
794 received.

795 B. Additional staff support for the functions of the Center may be provided upon
796 agreement by Longwood University, Danville Community College, and Southside Virginia
797 Community College.

798 **Drafting note: Technical changes.**

799 § ~~23-231.29~~ 23.1-xxx. Cooperation of other agencies.

800 All agencies of the Commonwealth shall cooperate with the Center; and, upon request,
801 assist the Center in the performance of its duties and responsibilities.

802 **Drafting note: No change.**

803 ~~CHAPTER 16.1.~~

804 ~~SOUTHWEST VIRGINIA HIGHER EDUCATION CENTER.~~

805 ~~Article 7.~~

806 ~~Southwest Virginia Higher Education Center.~~

807 **Drafting note: Existing Chapter 16.1 (§ 23-231.2 et seq.) is reorganized as proposed**
808 **Article 7 of Chapter 31.**

809 § ~~23-231.2~~ 23.1-xxx. Southwest Virginia Higher Education Center ~~created~~ established;
810 duties.

811 ~~From such funds as may be appropriated, the~~ The Southwest Virginia Higher Education
812 Center (the Center) is ~~hereby~~ established as an educational institution in the Commonwealth ~~and~~
813 ~~shall be referred to in this chapter as the "Center"~~. The Center shall:

814 1. Encourage the expansion of higher education, ~~including degrees,~~ adult and continuing
815 education, ~~associate degrees to be offered by Virginia Highlands Community College,~~
816 ~~undergraduate degrees to be offered by the University of Virginia's College at Wise, and~~
817 ~~graduate degree programs, in the Southwest region of the Commonwealth and foster~~
818 ~~partnerships between the public and private sectors to enhance higher education in the region;~~

819 ~~2. Coordinate the development and delivery of continuing education programs offered~~
820 ~~by those educational institutions serving the region, workforce training, and professional~~
821 ~~development through partnerships with public and private institutions of higher education;~~

822 ~~3.2.~~ Facilitate the delivery of teacher training programs leading to licensure and
823 ~~undergraduate and~~ graduate degrees;

824 ~~4.3.~~ Serve as a resource and referral center by maintaining and disseminating
825 information on existing educational programs and resources; and

826 ~~5.4.~~ Develop, in coordination with the ~~State Council of Higher Education for Virginia,~~
827 specific goals for higher education in Southwest Virginia.

828 **Drafting note: Technical changes are made. Substantive changes are made to**
829 **broaden the duties of the Center and align them with its current mission and practices.**

830 ~~§ 23-231.3 23.1-xxx. Membership of governing board; terms; compensation; officers~~
831 ~~Board of trustees.~~

832 A. The Center shall be governed by a ~~23-member Board of Trustees,~~ board of trustees
833 (the board), consisting of 23 members as follows: four members of the House of Delegates to be
834 appointed by the Speaker of the House of Delegates in accordance with the principles of
835 proportional representation contained in the Rules of the House of Delegates; two members of
836 the Senate to be appointed by the Senate Committee on Rules; the Director of the ~~State Council~~
837 ~~of Higher Education for Virginia~~ or his designee; the Chancellor of the Virginia Community
838 College System or his designee; the presidents or chancellors, as appropriate, ~~or their designees~~
839 of Virginia Polytechnic Institute and State University, Radford University, the University of
840 Virginia, the University of Virginia's College at Wise, Old Dominion University, Emory and
841 Henry College, Virginia ~~Intermont College~~ Commonwealth University, and Virginia Highlands
842 Community College or their designees; ~~four members of the House of Delegates to be appointed~~
843 ~~by the Speaker of the House of Delegates; two members of the Senate to be appointed by the~~
844 ~~Senate Committee on Rules;~~ and seven nonlegislative citizen members to be appointed by the

845 Governor, ~~representing who represent~~ Southwest Virginia public education and area business
846 and industry, including one ~~school~~ division superintendent, one public school teacher, two
847 business and industry leaders, ~~and three persons,~~ one ~~each representing representative of~~ the
848 technology industry, one representative of the tourism industry, and one representative of the
849 health care ~~industries, respectively~~ industry.

850 Nonlegislative citizen members of the ~~Board~~ board shall be chosen from among
851 residents of the Southwest region of the Commonwealth and shall be citizens of the
852 Commonwealth.

853 B. Legislative members and the representatives of the ~~State~~ Council, the Virginia
854 Community College System, and the named institutions of higher education shall serve terms
855 coincident with their terms of office. ~~After the initial staggering of terms, all nonlegislative~~
856 Nonlegislative citizen ~~appointments members~~ shall be appointed for terms of four years, ~~except~~
857 ~~that appointments to fill vacancies.~~ Appointments to fill vacancies, other than by expiration of a
858 term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the
859 original appointments.

860 No nonlegislative citizen member ~~of the Board~~ shall be eligible to serve more than two
861 successive consecutive four-year terms, ~~but after the expiration of the remainder of a term to~~
862 ~~which appointed to fill a vacancy, two additional four-year terms may be served by such~~
863 ~~member if appointed thereto; however, a member appointed to serve an unexpired term shall be~~
864 eligible to serve two consecutive four-year terms.

865 C. Nonlegislative citizen members shall not be entitled to compensation for their
866 services. Legislative members of the ~~Board~~ board shall be compensated as provided in § 30-
867 19.12, ~~and all.~~ All members of the ~~Board~~ board shall be reimbursed for all reasonable and
868 necessary expenses incurred in the performance of their duties in the work of the Center as
869 provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses
870 of the members shall be provided by the Center.

871 D. The ~~Board~~ board shall elect a chairman and a vice-chairman from among its ~~members~~
872 membership.

873 **Drafting note: Technical changes are made. The president of Virginia Intermont**
874 **College is removed as an ex officio member of the board. Virginia Intermont College**
875 **closed permanently in 2014. A substantive change is made to add the president of Virginia**
876 **Commonwealth University as an ex officio member of the board.**

877 § ~~23-231.4~~ 23.1-xxx. Powers of ~~Board; contracts for educational services~~ the board.

878 A. The ~~Board of Trustees~~ board shall have, in addition to its other powers, all the
879 corporate powers given to corporations by the provisions of Title 13.1, except in those cases
880 where, by the express terms of its provisions, it is confined to corporations created under that
881 title. The ~~Board shall also have the power to~~ board may accept, execute, and administer any trust
882 in which it may have an interest under the terms of the instrument creating the trust.

883 B. The ~~Board shall have the authority to~~ board may establish and administer agreements
884 with (i) public and private institutions of higher education in the Commonwealth to provide
885 graduate-level undergraduate-level and graduate-level instructional programs at the Center and
886 ~~with Emory and Henry College for the provision of graduate degree instructional programs in~~
887 ~~education at the Center. The Board shall be empowered to establish and administer agreements~~
888 ~~with the University of Virginia's College at Wise and Emory and Henry College for the~~
889 ~~provision of upper level undergraduate instructional programs at the Center and with (ii)~~
890 ~~Virginia Highlands Community College for the provision of~~ and other public and private
891 institutions of higher education to provide freshman-level and sophomore-level courses and
892 ~~associate-degree instructional programs at the Center~~ degrees.

893 § ~~23-231.6~~. ~~Application for and acceptance of gifts and grants.~~

894 C. The Board is authorized board may, on behalf of the Center ~~to~~, may apply for, accept,
895 and expend gifts, grants, or donations from public or private sources to enable it to carry out its
896 objectives.

897 **Drafting note: The provisions of existing § 23-231.6 are incorporated as subsection**
898 **C of this proposed section, which includes broader provisions related to board powers.**
899 **Technical changes are made. Substantive changes are made to give the board the authority**
900 **to establish and administer agreements with (i) public and private institutions of higher**
901 **education in the Commonwealth to provide undergraduate-level and graduate-level**
902 **instructional programs at the Center and (ii) Virginia Highlands Community College and**
903 **other public and private institutions of higher education to provide freshman-level and**
904 **sophomore-level courses and associate degrees. Under existing law, the Center is only**
905 **permitted to establish and administer agreements with (i) public institutions of higher**
906 **education in the Commonwealth to provide graduate-level instructional programs at the**
907 **Center and (ii) Virginia Highlands Community College to provide associate degree**
908 **instructional programs at the Center. This substantive change is meant to align the**
909 **Center's powers with its current mission and practices.**

910 § ~~23-231.5~~ 23.1-xxx. Executive director; ~~powers and duties; staff~~.

911 A. The ~~Board~~ board shall appoint an executive director for the Center who shall
912 supervise and manage the Center and shall prepare and submit, upon direction and approval by
913 the ~~Board~~ board, all requests for appropriations. The ~~Executive Director of the Center~~ executive
914 director shall be authorized to employ such staff as necessary to enable the Center to perform its
915 duties as set forth in this ~~chapter article~~. The ~~Board~~ board is authorized to determine the duties
916 of such staff and ~~to~~ fix salaries and compensation from such funds as may be appropriated or
917 received.

918 B. Additional staff support for the functions of the Center may be provided upon
919 agreement by ~~Virginia Polytechnic Institute and State University, the University of Virginia, the~~
920 ~~University of Virginia's College at Wise, and Virginia Highlands Community College~~ any
921 public institution of higher education in the Commonwealth that offers courses or instructional
922 programs at the Center.

923 **Drafting note: Technical changes are made. A substantive change is made to specify**
924 **that additional staff support for the functions of the Center may be provided upon**
925 **agreement by any public institution of higher education in the Commonwealth that offers**
926 **courses or instructional programs at the Center. Under current law, such agreements are**
927 **only permitted between the Center and Virginia Polytechnic Institute and State**
928 **University, the University of Virginia, the University of Virginia's College at Wise, and**
929 **Virginia Highlands Community College.**

930 § ~~23-231.7~~ 23.1-xxx. Cooperation of other agencies.

931 All agencies of the Commonwealth shall cooperate with the Center; and, upon request,
932 assist the Center in the performance of its duties and responsibilities.

933 **Drafting note: Technical change.**

934 CHAPTER 32.

935 MUSEUMS AND OTHER CULTURAL ENTITIES.

936 **Drafting note: Museums and other cultural entities, existing Chapters 18, 18.1, 23,**
937 **24, and 25 of Title 23, are grouped and reorganized as articles within proposed Chapter**
938 **32. Also logically relocated to proposed Chapter 32 are provisions relating to two other**
939 **cultural entities, the Virginia Commission for the Arts (existing Article 4 [§ 2.2-2508 et**
940 **seq.] of Chapter 25 of Title 2.2) and the Virginia Arts Foundation (existing Article 1 [§ 2.2-**
941 **2700 et seq.] of Chapter 27 of Title 2.2).**

942 ~~CHAPTER 25.~~

943 ~~FRONTIER CULTURE MUSEUM OF VIRGINIA.~~

944 Article 1.

945 General Provisions.

946 § 23.1-xxx. Governing boards of educational institutions; removal of members.

947 A. Notwithstanding any other provision of law, the Governor may remove from office
948 for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board

949 of any educational institution established pursuant to this chapter and fill the vacancy resulting
950 from the removal.

951 B. The Governor shall set forth in a written public statement his reasons for removing
952 any member pursuant to subsection A at the time the removal occurs. The Governor shall be the
953 sole judge of the sufficiency of the cause for removal as set forth in subsection A.

954 **Drafting note: The provisions of this proposed section are moved from subsections**
955 **A and C of § 2.2-108.**

956 Article 2.

957 Frontier Culture Museum of Virginia.

958 **Drafting note: Existing Chapter 25 (§ 23-296 et seq.) is reorganized as proposed**
959 **Article 2 of Chapter 32.**

960 § ~~23-296~~ 23.1-xxx. Frontier Culture Museum of Virginia ~~created; purpose established.~~

961 ~~There is hereby created the~~ The Frontier Culture Museum of Virginia (the Museum) is

962 established as a state agency and educational institution. The purpose of the ~~museum~~ Museum is

963 to construct, operate, and maintain, in the Augusta ~~County/Staunton/Waynesboro~~ County,

964 Staunton, and Waynesboro area of the Commonwealth, an outdoor museum ~~in order~~

965 to commemorate on an international scale the ~~contribution which~~ contributions of the pioneers and

966 colonial frontiersmen and frontierswomen of the eighteenth and nineteenth centuries ~~made~~

967 to the creation and development of the United States. The Museum is ~~an educational institution~~

968 with responsibility to administer certain responsible for administering such historical and

969 interpretive programs as may be established by the board of trustees of the Museum.

970 **Drafting note: Technical changes.**

971 § ~~23-297~~ 23.1-xxx. Board of ~~Trustees; membership; terms; officers and committees;~~

972 compensation trustees.

973 A. ~~The Frontier Culture Museum of Virginia~~ shall be administered by a ~~Board of~~

974 Trustees board of trustees (the board) consisting of no more than 25 members. The members

975 shall be appointed as follows: five members of the House of Delegates shall be appointed by the
976 Speaker of the House of Delegates; in accordance with the rules of proportional representation
977 contained in the Rules of the House of Delegates, three members of the Senate shall be
978 appointed by the Senate Committee on Rules; and nine nonlegislative citizen members shall be
979 appointed by the Governor. The Governor may appoint, upon recommendation of the ~~Board of~~
980 ~~Trustees board~~, up to eight additional nonlegislative members ~~for four-year terms~~ who may be
981 nonresidents of the Commonwealth ~~and who shall serve at no expense to the Commonwealth~~.

982 B. Legislative members shall serve terms coincident with their terms of office. ~~After the~~
983 ~~initial staggering of terms~~, nonlegislative Nonlegislative citizen members shall be appointed
984 ~~shall serve~~ for ~~four-year~~ terms of four years. Appointments to fill vacancies, other than by
985 expiration of a term, shall be ~~made~~ for the unexpired ~~term terms~~. Vacancies shall be filled in the
986 same manner as the original appointments. All members may be reappointed.

987 C. The ~~Board of Trustees board~~ shall elect a chairman, vice-chairman, and such other
988 officers as it deems necessary. ~~Seven or more of the members of the Board of Trustees shall~~
989 ~~constitute an executive committee~~. A majority of the members shall constitute a quorum. The
990 meetings of the board shall be held at the call of the chairman or whenever the majority of the
991 members so request. The board may appoint an executive committee for the transaction of
992 business in the recess of the board consisting of at least seven members.

993 ~~The Board of Trustees~~ D. Members of the board shall be reimbursed for all reasonable
994 and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813
995 and 2.2-2825 ~~and shall be compensated at the per diem rate established for members of the~~
996 ~~General Assembly for meetings~~. Nonlegislative members shall receive no compensation for
997 their services. Legislative members shall be compensated as provided in § 30-19.12. Funding
998 for the costs of compensation and expenses of the members shall be provided by the ~~Frontier~~
999 ~~Culture~~ Museum.

1000 **Drafting note: Technical changes are made including adding standard language for**
1001 **a quorum and how meetings are called. A substantive change is made in subsections A**
1002 **and D to (i) remove the restriction that members who are not residents of the**
1003 **Commonwealth shall serve at no expense to the Commonwealth and (ii) specify that all**
1004 **members are entitled to reimbursement for reasonable and necessary expenses but only**
1005 **legislative members are entitled to be compensated at a per diem rate. A substantive**
1006 **change is made in proposed subsection C to specify that the board may appoint an**
1007 **executive committee for the transaction of business in the recess of the board. Similar**
1008 **language is found in the enabling statutes of other boards in proposed Title 23.1. The**
1009 **existing statute is silent on the appointment and powers of the executive committee.**

1010 § ~~23-298~~ 23.-xxx. Powers of ~~Board of Trustees;~~ donation the board.

1011 A. The ~~Board of Trustees~~ board shall:

1012 1. Establish, operate, and maintain the ~~Frontier Culture~~ Museum of Virginia to
1013 commemorate the contributions ~~which of~~ of the pioneers and colonial frontiersmen and
1014 frontierswomen ~~made~~ to the creation of this nation;

1015 2. Employ an executive director and such assistants as may be required and confer such
1016 duties and responsibilities as determined necessary;

1017 3. Adopt a flag, seal, and other emblems for use in connection with the Museum;

1018 4. Establish a nonprofit corporation to develop and maintain public awareness of the
1019 Frontier Culture Museum of Virginia;

1020 5. Receive and expend gifts, grants, and donations of any kind from whatever sources
1021 determined, including donations accepted by the American Frontier Culture Foundation on
1022 behalf of the Museum;

1023 6.5. Adopt regulations and set fees concerning the use and visitation of properties under
1024 its control;

1025 7.6. Acquire by purchase, lease, gift, devise, or condemnation proceedings, with the
1026 consent of the Governor, lands, property, and structures deemed necessary to the purpose of the
1027 Museum ~~by purchase, lease, gift, devise or condemnation proceedings~~. The title to land and
1028 property acquired shall be in the name of the Commonwealth. In the exercise of the power of
1029 eminent domain granted under this section, the Museum may proceed in the manner provided by
1030 Chapter 3 (§ 25.1-300 et seq.) of Title 25.1;

1031 8.7. Convey by lease land and structures to any person, association, firm, or corporation,
1032 with the consent of the Governor, for such terms and on such conditions as the Museum may
1033 determine;

1034 9.8. Enter into contracts to further the purpose of the Museum, ~~which have been~~
1035 ~~approved by the Attorney General~~; and

1036 10.9. Elect any past member of the ~~Board of Trustees~~ board to the honorary position of
1037 trustee emeritus. Trustees emeriti shall serve as honorary members for life, shall not have voting
1038 privileges, and shall be elected in addition to those positions set forth in § ~~23-297~~ 23.1-xxx.

1039 B. In addition to the powers granted by subsection A, the ~~Board~~ board may, ~~from time to~~
1040 ~~time~~, evaluate the significance ~~or~~ and suitability of the furnishings, household items, and other
1041 objects ~~heretofore and hereinafter~~ acquired by purchase, gift ~~or donations~~, or donation with or
1042 for the Museum, for the purpose of accurately presenting the means, tastes, and lifestyles of the
1043 people living during the era depicted by the Museum ~~depicts and within the limitations of the~~
1044 ~~furnishings, household items, and other objects that would have been available to and within the~~
1045 ~~means of such persons~~. The ~~Board~~ board may ~~dispose of~~ exchange or sell those furnishings,
1046 household items, and other objects ~~determined by the Board that it determines~~ to be of little or
1047 no significance or suitability for achieving the purposes or mission of the Museum ~~by exchange~~
1048 ~~or sale, so as~~ long as such disposition is not inconsistent with the terms of the acquisition of the
1049 relevant property. ~~At the discretion of the Board, sales~~ Sales of these items may be conducted by
1050 auction houses recognized for their expertise in the sale of such property.

1051 C. Any furnishings, household goods, and other objects previously acquired by donation
1052 or purchase and the net proceeds of any sale of these items as provided in subsection B shall
1053 constitute a discrete fund of the ~~Frontier Culture~~ Museum ~~of Virginia~~ and shall be used solely
1054 for the acquisition of period furnishings, household goods, and other objects consistent with the
1055 purpose and mission of the Museum.

1056 Donations to the Museum of any funds, securities, and any other property, real or
1057 personal, for use in accordance with its purpose and mission, shall constitute endowments or
1058 unrestricted gifts within the meaning of § ~~23-9.2~~ 23.1-xxx. The ~~Board~~ board may change the
1059 form of investment of any such funds, securities, or other property, real or personal, if the
1060 change in such form is not inconsistent with the terms of the instrument under which such
1061 property was acquired; and may sell, grant, or convey any such property; however, any transfers
1062 of real property ~~may~~ shall be made only with the consent of the Governor.

1063 **Drafting note: Technical changes are made. A substantive change is made in**
1064 **proposed subdivision A 8: the requirement for the Attorney General to approve contracts**
1065 **that the board enters is removed. The Attorney General does not exercise approval of such**
1066 **contracts.**

1067 ~~CHAPTER 24.~~

1068 ~~BOARDS OF REGENTS; GUNSTON HALL.~~

1069 Article 3.

1070 Gunston Hall.

1071 **Drafting note: Existing Chapter 24 (§ 23-295 et seq.) is reorganized as proposed**
1072 **Article 3 of Chapter 32.**

1073 § ~~23-295~~ 23.1-xxx. Board of Regents of Gunston Hall; and Board of Visitors for
1074 Gunston Hall established.

1075 ~~There is hereby created the~~ The Board of Regents of Gunston Hall ~~and the Board of~~
1076 ~~Visitors for Gunston Hall~~ (Board of Regents) is established as an educational institution to

1077 manage, maintain, and operate Gunston Hall and accept and administer gifts of real and
1078 personal property made for the benefit of Gunston Hall. The Board of Visitors for Gunston Hall
1079 is established. Membership of both collegial bodies shall be pursuant to the terms and conditions
1080 of the deed of gift of Gunston Hall from Louis Hertle to the Commonwealth ~~of Virginia~~. The
1081 duties ~~for~~ of the two boards are prescribed in Chapter 138 of the ~~1932~~ Acts of Assembly of 1932
1082 and Chapter 175 of the ~~1948~~ Acts of Assembly of 1948. ~~As such, the Board of Regents is~~
1083 ~~declared an educational institution with all the rights, powers, privileges, and immunities under~~
1084 ~~law. The Board of Regents shall manage, maintain and operate Gunston Hall and accept and~~
1085 ~~administer gifts of real and personal property made for the benefit of Gunston Hall.~~

1086 **Drafting note: Technical changes.**

1087 § ~~23-295.1~~ 23.1-xxx. ~~Certain powers~~ Powers of the Board of Regents.

1088 A. The Board of Regents may ~~from time to time~~ undertake to determine the significance
1089 or suitability of the furnishings, household items, and other objects ~~heretofore and hereafter~~
1090 acquired by purchase, gift, or ~~donations with or~~ donation for Gunston Hall, for the purpose of
1091 accurately presenting Gunston Hall according to the means and taste of George Mason ~~and~~
1092 ~~within the limitations of the furnishings, household items, and other objects that would have~~
1093 ~~been available to him and within his means~~. Those furnishings, household items, and other
1094 objects determined by the Board of Regents to be of little or no significance or unsuitable for
1095 achieving this purpose may be ~~disposed of~~ exchanged or sold by the Board ~~by exchange or sale~~
1096 of Regents if not inconsistent with the terms of the acquisition ~~thereof of the items~~. ~~At the~~
1097 ~~discretion of the Board, such~~ Such sales may be conducted by auction houses recognized for the
1098 expertise in the sale of such items.

1099 B. Any such furnishings, household goods, and other objects ~~previously~~ acquired by
1100 donation or purchase and the net proceeds of any sale of these items as provided in subsection A
1101 shall constitute a discrete fund of Gunston Hall, restricted to future acquisitions of period

1102 furnishings, household goods, and other objects consistent with the purposes set forth in
1103 subsection A, and the conservation of all such holdings of Gunston Hall.

1104 C. Donations to Gunston Hall of any funds, securities, and any other property, real or
1105 personal, for use in accordance with the mission of Gunston Hall, shall constitute endowments
1106 or unrestricted gifts within the meaning of ~~§ 23-9-2~~ 23.1-xxx. The Board of Regents may (i)
1107 change the form of investment of any such funds, securities, or other property, real or personal,
1108 provided that the same are form is not inconsistent with the terms of the instrument under which
1109 the ~~same were~~ property was acquired, and ~~to~~ (ii) sell, grant, or convey any such property, except
1110 that any transfers of real property may be made only with the consent of the Governor.

1111 **Drafting note: Technical changes.**

1112 ~~CHAPTER 23.~~

1113 ~~JAMESTOWN-YORKTOWN FOUNDATION.~~

1114 Article 4.

1115 Jamestown-Yorktown Foundation.

1116 **Drafting note: Existing Chapter 23 (§ 23-287 et seq.) is reorganized as proposed**
1117 **Article 4 of Chapter 32.**

1118 ~~§ 23-287~~ 23.1-xxx. Jamestown-Yorktown Foundation ~~continued; Board of Trustees;~~
1119 ~~officers and executive committee established; board of trustees.~~

1120 A. The Jamestown-Yorktown Foundation, ~~hereinafter referred to as the Foundation, is~~
1121 ~~hereby continued and shall be deemed to be~~ (the Foundation) is established as an ~~institution of~~
1122 ~~higher education within the meaning of §§ 23-3.1 and 23-9.2~~ educational institution to
1123 administer certain historical museums and such related programs as may be established by the
1124 board of trustees.

1125 B. The Foundation shall be administered by ~~the Board~~ a board of ~~Trustees consisting of~~
1126 ~~the following ex officio~~ trustees: (the board). The Governor, the Lieutenant Governor, the
1127 Attorney General, the Speaker of the House of Delegates, the President Pro Tempore of the

1128 Senate, the Chairman of the House Appropriations Committee, either the Chairman or the
1129 Chairman Emeritus of the Senate Finance Committee, to be determined by the Senate
1130 Committee on Rules, ~~and~~ the Secretary of Education, and the president of the Jamestown-
1131 Yorktown Foundation, Inc., shall serve ex officio. ~~In addition, there~~ There shall be 12
1132 nonlegislative citizen members appointed by the Governor from the Commonwealth at large for
1133 four-year terms ~~who shall be~~, subject to confirmation by ~~a majority of the members of each~~
1134 ~~house of~~ the General Assembly; eight members of the House of Delegates appointed by the
1135 Speaker of the House of Delegates ~~from the membership thereof for terms concurrent with the~~
1136 ~~terms for which they have been elected to office~~ in accordance with the rules of proportional
1137 representation contained in the Rules of the House of Delegates; four members of the Senate
1138 appointed by the Senate Committee on Rules ~~from the membership of the Senate for terms~~
1139 ~~concurrent with the term for which they have been elected to office~~; five members annually
1140 elected by the ~~Board of Trustees~~ board, some of whom may be nonresidents of the
1141 Commonwealth; and any and all chairmen emeriti elected by the ~~Board of Trustees~~ board
1142 pursuant to § ~~23-288~~ 23.1-xxx. ~~The president of the Jamestown-Yorktown Foundation, Inc.~~
1143 ~~shall also serve as a member of the Board of Trustees. Nonresident members of the Board of~~
1144 ~~Trustees shall serve at no expense to the Commonwealth.~~

1145 Legislative and ex officio members shall serve terms coincident with their terms of
1146 office. Appointments to fill vacancies, other than by expiration of a term, shall be for the
1147 unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

1148 C. ~~The Board of Trustees~~ board shall elect a chairman, vice-chairman, and such other
1149 officers as ~~are deemed it deems~~ necessary. The ~~chairman~~ board shall appoint at least seven ~~or~~
1150 ~~more~~ members ~~of the Board~~ to constitute an executive committee, ~~the membership of~~ which
1151 shall include the chairman and vice-chairman. A majority of the members shall constitute a
1152 quorum. The meetings of the board shall be held at the call of the chairman or whenever the
1153 majority of the members so request.

1154 ~~Resident members of the Board of Trustees~~ D. Nonresident members of the board shall
1155 serve at no expense to the Commonwealth. Members who are residents of the Commonwealth
1156 shall be reimbursed for all reasonable and necessary expenses incurred in the performance of
1157 their duties as provided in §§ 2.2-2813 and 2.2-2825 and shall receive compensation at the per
1158 diem rate established for members of the General Assembly as provided in § 30-19.12. The
1159 funding for the costs of compensation and expenses of the members shall be provided by the
1160 Foundation.

1161 ~~B. The Foundation is an educational institution and has the further responsibility to~~
1162 ~~administer certain historical museums and such related programs as may be established as~~
1163 ~~defined from time to time.~~

1164 **Drafting note: Technical changes are made. A substantive change is made in**
1165 **proposed subsection C. Under existing law, the executive committee is appointed by the**
1166 **chairman. The proposed change gives this appointment power to the board instead.**
1167 **Similar provisions are found in the enabling statutes of other boards in proposed Title**
1168 **23.1.**

1169 § ~~23-288~~ 23.1-xxx. Powers and duties.

1170 The ~~Foundation~~ board shall have the power and duty to:

1171 1. Do all things necessary and proper to (i) foster through its living-history museums,
1172 Jamestown Settlement, and Yorktown Victory Center, an awareness and understanding of the
1173 early history, settlement, and development of the United States through the convergence of
1174 American Indian, European, and African cultures and the enduring legacies bequeathed to the
1175 nation; ~~to~~ (ii) commemorate Jamestown as the first permanent English-speaking settlement in
1176 the United States and its contributions to the building of our Commonwealth and nation; ~~to~~ (iii)
1177 commemorate the winning of American independence on the battlefield at Yorktown; and ~~to~~
1178 (iv) enhance our understanding of the making of the United States Constitution and Bill of

1179 Rights, including Virginia's role in shaping the fundamental principles of the American
1180 constitutional system-;

1181 2. Administer, develop, and maintain at Jamestown and Yorktown permanent
1182 commemorative shrines and historical museums-;

1183 3. Adopt names, flags, seals, and other emblems for use in connection with such shrines
1184 and copyright the same in the name of the Commonwealth-;

1185 4. Enter into contracts to further the purposes of the Foundation, ~~which have been~~
1186 ~~approved by the Attorney General~~;

1187 5. Establish nonprofit corporations as instrumentalities to assist in administering the
1188 affairs of the Foundation.

1189 6. With the consent of the Governor, acquire by purchase, lease, gift, devise, or
1190 condemnation proceedings lands, property, and structures deemed necessary for the purposes of
1191 the Foundation ~~by purchase, lease, gift, devise or condemnation proceedings~~. The title to ~~the~~
1192 such acquired land and property ~~acquired~~ shall be in the name of the Commonwealth. In the
1193 exercise of the power of eminent domain granted under this section, the Foundation may
1194 proceed in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1-;

1195 ~~7.6.~~ With the consent of the Governor, convey by lease land to any person, association,
1196 firm, or corporation for such term and on such conditions as the Foundation may determine-;

1197 ~~8.7.~~ Receive and expend gifts, grants, and donations from whatever source derived for
1198 the purposes of the Foundation-;

1199 ~~9.8.~~ Employ an executive director and such deputies and assistants as may be required-;

1200 ~~10.9.~~ Elect any past chairman of the ~~Board of Trustees~~ board to the honorary position of
1201 ~~Chairman Emeritus~~ chairman emeritus. Chairmen emeriti shall serve as honorary members for
1202 life. Chairmen emeriti shall be elected in addition to the at-large positions defined in § ~~23-287~~.
1203 23.1-xxx;

1204 ~~11.10.~~ With the consent of the Governor, enter into agreements or contracts with private
1205 entities for the promotion of tourism through marketing without participating in competitive
1206 sealed bidding or competitive negotiation, provided that a demonstrable cost savings, as
1207 reviewed by the Secretary of Education, can be realized by the Foundation and such agreements
1208 or contracts are based on competitive principles;

1209 ~~12.11.~~ Determine ~~what~~ which paintings, statuary, works of art, manuscripts, and artifacts
1210 ~~may shall~~ be acquired by purchase, gift, or loan, and exchange or sell ~~the same~~ such items if not
1211 inconsistent with the terms of such purchase, gift, loan, or other acquisition; ~~and~~

1212 ~~13.12.~~ Change the form of investment of any funds, securities, or other property, real or
1213 personal, provided the ~~same are~~ form is not inconsistent with the terms of the instrument under
1214 which the ~~same were~~ property was acquired, and sell, grant, or convey any such property, except
1215 that any transfers of real property may be made only with the consent of the Governor.

1216 **Drafting note: Technical changes. A substantive change is made in proposed**
1217 **subdivision 4: the requirement for the Attorney General to approve contracts that the**
1218 **board enters is removed. The Attorney General does not exercise approval of such**
1219 **contracts.**

1220 § ~~23-289~~ 23.1-xxx. ~~Authority to adopt regulations as to use and visitation of properties~~
1221 Regulations.

1222 A. The ~~Board of Trustees, or the executive committee thereof, of the Foundation board~~
1223 or its executive committee may adopt ~~such~~ regulations ~~from time to time,~~ concerning the use
1224 and visitation of properties under the control of the Jamestown-Yorktown Foundation, to protect
1225 ~~or and~~ secure such properties and the public enjoyment ~~thereof~~ of such properties.

1226 B. Any person, who knowingly violates a regulation of the Foundation may be requested
1227 by an agent or employee of the Foundation to leave the property and upon the failure of such
1228 person so to do, shall be guilty of a trespass, as provided in § 18.2-119.

1229 **Drafting note: Technical changes.**

1230 § ~~23-290~~ 23.1-xxx. Authority to contract debts and obligations payable from revenues.
1231 The Foundation, acting by and through the corporation authorized by § ~~23-288~~ 23.1-xxx,
1232 may contract debts and obligations to the extent of its anticipated revenues. Such debts and
1233 obligations shall be paid only from the revenues of the Foundation.

1234 **Drafting note: Technical changes.**

1235 § ~~23-290.1~~.

1236 **Drafting note: Repealed by Acts 2011, cc. 345 and 356, cl. 2.**

1237 §§ ~~23-291, 23-292~~.

1238 **Drafting note: Expired by the terms of Acts 1998, c. 799, cl. 2, on July 1, 2008.**

1239 §§ ~~23-293, 23-294~~.

1240 **Drafting note: Existing §§ 23-293 and 23-294, currently reserved, are stricken.**

1241 ~~CHAPTER 18.~~

1242 ~~THE SCIENCE MUSEUM OF VIRGINIA.~~

1243 ~~Article 5.~~

1244 ~~Science Museum of Virginia.~~

1245 **Drafting note: Existing Chapter 18 (§ 23-239 et seq.) is reorganized as proposed**
1246 **Article 5 of Chapter 32.**

1247 § ~~23-239~~ 23.1-xxx. Science Museum—created; essential governmental function of
1248 Virginia established.

1249 ~~There is hereby created and constituted an educational institution of the Commonwealth~~
1250 ~~of Virginia to be known as "The Science Museum of Virginia," hereinafter in this chapter~~
1251 ~~sometimes referred to as the "Museum." The Museum is hereby declared to be~~ (the Museum) is
1252 established as an educational institution of the Commonwealth, and a public body and
1253 instrumentality for the dissemination of education. The exercise by the Museum of the powers
1254 conferred by this ~~chapter~~ article shall be deemed ~~and held~~ to be the performance of an essential
1255 governmental function.

1256 **Drafting note: Technical changes. Language declaring the Museum an institution of**
1257 **higher education has been relocated from existing § 23-252.**

1258 **Drafting note: Technical changes.**

1259 ~~§ 23-241. Reserved.~~

1260 **Drafting note: Existing § 23-241, currently reserved, is stricken.**

1261 ~~§ 23-242. Organization.~~

1262 ~~The Museum shall contain a headquarters and six divisions to encompass the following~~
1263 ~~major areas of science:~~

1264 ~~Physical Sciences~~

1265 ~~Botanical Sciences~~

1266 ~~Natural History~~

1267 ~~Industry and Technology~~

1268 ~~Oceanography and Limnology~~

1269 ~~Zoological Gardens.~~

1270 **Drafting note: Existing § 23-242 is stricken as obsolete.**

1271 ~~§ 23-243. 23.1-xxx. To be governed by board Board of trustees; ~~appointment of~~~~
1272 ~~members.~~

1273 A. The Museum shall be governed by a board of trustees; (the board) consisting of
1274 fifteen 15 members; ~~each of whom who~~ shall be appointed by the Governor. ~~One~~ At least one of
1275 the members ~~appointed to the board~~ shall be a member of the Virginia Academy of Science. The
1276 appointments shall be subject to confirmation by the General Assembly ~~if in session and, if not,~~
1277 ~~then at its next succeeding session. The board of trustees will hereinafter in this chapter be~~
1278 ~~referred to as the "board."~~

1279 B. Members shall be appointed for terms of five years. Appointments to fill vacancies,
1280 other than by expiration of a term, shall be for the unexpired terms. No member shall be eligible

1281 to serve more than two consecutive five-year terms; however, a member appointed to serve an
1282 unexpired term shall be eligible to serve two consecutive five-year terms.

1283 C. No member shall receive a salary for his service on the board.

1284 § 23-245. Officers of board.

1285 D. The board shall ~~select~~ elect a chairman and a secretary from its membership; and
1286 ~~under rules adopted by itself~~ may elect ~~one of its members as a~~ vice-chairman from its
1287 membership. ~~It shall elect one of its members as secretary.~~

1288 § 23-248. Meetings of board.

1289 G. The board shall meet at such times as it deems appropriate ~~and on call of the~~
1290 ~~chairman when in his opinion meetings are expedient or necessary.~~

1291 § 23-249. Quorum of board.

1292 HI. Seven members of the board shall constitute a quorum for all purposes.

1293 **Drafting note: The provisions of existing §§ 23-244, 23-245, 23-248, and 23-249 are**
1294 **incorporated into this proposed section, which includes broader provisions relating to the**
1295 **membership of the board of trustees. Technical changes are made.**

1296 § 23-246. Oath of members.

1297 ~~Before entering upon the discharge of his duties, each member of the board shall take the~~
1298 ~~usual oath of office.~~

1299 **Drafting note: Existing § 23-246 is stricken as obsolete.**

1300 § 23-247. Bonds of members.

1301 ~~Each member of the board shall give bond, with corporate surety, in such penalty as is~~
1302 ~~fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on~~
1303 ~~the bonds shall be paid from funds available to the Museum.~~

1304 **Drafting note: Existing § 23-247 is stricken as obsolete.**

1305 § 23-244. Terms of members; vacancies.

1306 ~~The members of the board shall be appointed for terms of five years each beginning~~
1307 ~~from the expiration of the respective terms of their predecessors, except that an appointment to~~
1308 ~~fill a vacancy shall be for the unexpired term and that the initial appointments to increase the~~
1309 ~~board to fifteen members shall be for such terms of less than five years as may be necessary to~~
1310 ~~stagger the expiration of terms so that the terms of not more than four members expire in any~~
1311 ~~one year. Members of the board may be suspended or removed by the Governor at his pleasure.~~
1312 ~~For the purpose of succession, the initial appointments of members for terms of less than five~~
1313 ~~years shall be deemed appointments to fill vacancies. No person shall be eligible to serve for or~~
1314 ~~during more than two successive terms; provided, however, any person appointed to fill a~~
1315 ~~vacaney may be eligible for two additional successive terms after the term of the vacancy for~~
1316 ~~which he was appointed has expired. The members of the board shall receive no salaries.~~

1317 **Drafting note: The provisions of existing § 23-244 are stricken here and**
1318 **incorporated as subsections B, C, and D of proposed § 23.1-xxx of Article 5.**

1319 ~~§ 23-240~~ 23.1-xxx. Purposes Duties of the board.

1320 ~~The purposes of The Science Museum of Virginia are: to deepen~~ board shall seek to:

1321 1. Deepen our understanding of man and his environment; ~~to promote~~

1322 2. Promote a knowledge of the scientific method and thus encourage objectivity in the
1323 everyday affairs of man; ~~to engage~~

1324 3. Engage in instruction and research in the sciences in order to educate citizens of all
1325 ages in the concepts and principles of science and how these concepts and principles form the
1326 foundation upon which rests our technological society and its economy; ~~to use;~~

1327 4. Use, subject to approval of the accredited educational affiliates concerned, Museum
1328 personnel in educational programs; ~~to motivate~~

1329 5. Motivate and stimulate young people to seek careers in science; ~~to encourage~~

1330 6. Encourage an understanding of the history of scientific endeavor; ~~to provide~~

1331 7. Provide special facilities and collections for the study of Virginia's natural resources;
1332 and ~~to foster~~

1333 8. Foster a love of nature and concern for its preservation. ~~These purposes are hereby~~
1334 ~~declared to be a matter of legislative determination.~~

1335 **Drafting note: Technical changes.**

1336 § ~~23-250~~ 23.1-xxx. Powers ~~and duties~~ of the board.

1337 The board ~~is hereby authorized and empowered~~ may:

1338 1. ~~To select~~ Select sites for the Museum and ~~the its~~ divisions ~~thereof~~ and ~~to~~ provide for
1339 the erection, care, and preservation of all property belonging to the Museum;

1340 2. ~~To appoint~~ Appoint the ~~Director~~ director of the Museum; (the director) and prescribe
1341 his duties and salary;

1342 3. ~~To prescribe rules and regulations~~ Establish policies for the operation of the Museum,
1343 including, ~~but not limited to~~, the kinds and types of instruction and exhibits, and the making of
1344 plans for expansion ~~from time to time~~ of the Museum;

1345 4. ~~To employ~~ Employ planning consultants and architects ~~in relation to establishment for~~
1346 any expansion of the Museum ~~and any expansions thereof~~;

1347 5. ~~To acquire~~ Acquire by purchase, gift, loan, or otherwise land necessary for
1348 ~~establishment and exhibits, displays, and~~ expansion of the Museum; ~~and exhibits and displays~~;

1349 6. ~~To enter~~ Enter into contracts for construction of physical facilities;

1350 7. To adopt a seal; ~~and~~

1351 8. ~~To charge~~ Charge for admission to the Museum; ~~if deemed appropriate; and~~

1352 9. On behalf of the Commonwealth and in furtherance of the purposes of the Museum,
1353 receive and administer gifts, bequests, and devises of property of any kind whatsoever and
1354 grants from agencies of the United States government and expend, or authorize the expenditure
1355 of, funds derived from such sources and funds appropriated by the General Assembly to the
1356 Museum.

1357 **Drafting note: Subsection A of existing § 23-252 is stricken and its provisions are**
1358 **incorporated instead into subdivision A 9 this proposed section, which includes broader**
1359 **provisions relating to board powers. Technical changes are made.**

1360 § ~~23-251~~ 23.1-xxx. Agents and employees.

1361 The ~~Director~~ director may engage or authorize the engagement of such agents and
1362 employees as may be needed in the operation and maintenance of the Museum, subject to the
1363 approval of the board.

1364 **Drafting note: Technical changes.**

1365 § ~~23-252~~. ~~Acceptance of gifts; expenditures; application of §§ 23-3.1 and 23-9.2.~~

1366 ~~A. The board is authorized, on behalf of the Commonwealth and in furtherance of the~~
1367 ~~purposes of the Museum, to receive and administer gifts, bequests and devises of property of~~
1368 ~~any kind whatsoever, and grants from agencies of the United States government, and to expend,~~
1369 ~~or authorize the expenditure of, funds derived from such sources and funds appropriated by the~~
1370 ~~General Assembly to the Museum.~~

1371 ~~B. The Museum shall be deemed to be an institution of higher education within the~~
1372 ~~meaning of §§ 23-3.1 and 23-9.2.~~

1373 ~~C. Gifts heretofore made to the Museum by political subdivisions of the Commonwealth~~
1374 ~~are hereby validated.~~

1375 **Drafting note: Subsections A and B of existing § 23-252 are stricken here and**
1376 **incorporated instead into proposed §§ 23.1-xxx and 23.1-xxx in Article 5. Subsection C is**
1377 **stricken as obsolete.**

1378 § ~~23-253~~ 23.1-xxx. Annual report.

1379 The ~~Board of Trustees~~ board shall submit an annual report to the Governor and General
1380 Assembly on or before November 1 of each year. Such report shall contain, at a minimum, the
1381 annual financial statements of the Museum for the fiscal year ending the preceding June 30.

1382 **Drafting note: Technical changes.**

1383

~~CHAPTER 18.1.~~

1384

~~VIRGINIA MUSEUM OF FINE ARTS.~~

1385

~~Article 6.~~

1386

~~Virginia Museum of Fine Arts.~~

1387

Drafting note: Existing Chapter 18.1 (§ 23-253.1 et seq.) is reorganized as proposed

1388

Article 6 of Chapter 32.

1389

§ 23.1-xxx. Virginia Museum of Fine Arts established.

1390

The Virginia Museum of Fine Arts is established as an educational institution in the

1391

Commonwealth. The Museum shall be deemed to be an institution of higher education within

1392

the meaning of § 23.1-xxx [23-9.2].

1393

Drafting note: Subdivision (x) of existing § 23-253.4 and the last sentence of the first

1394

paragraph of existing § 23-253.4 are stricken and incorporated instead into this proposed

1395

section relating to the establishment and nature of the Museum.

1396

~~§ 23-253.1~~ 23.1-xxx. Membership of board of trustees; quorum Board of trustees.

1397

A. The management and control of the Virginia Museum of Fine Arts, ~~hereinafter in this~~

1398

~~chapter called the "Museum," together with the~~ (the Museum) and its building, contents,

1399

furnishings, grounds, and other properties ~~thereof~~ shall be vested in a board of trustees (the

1400

board) composed of ~~the following persons:~~ (i) ~~ex-officio members:~~ the Governor, the Speaker of

1401

the House of Delegates, and the mayor of the City of Richmond, who shall serve ex officio, and

1402

(ii) ~~regular members: the trustees who are in office on June 27, 1958, and their successors from~~

1403

~~time to time, consisting of not less than at least 25 persons and but~~ not more than 35 ~~persons~~

1404

nonlegislative citizen members. ~~The term of office of all regular~~ Nonlegislative citizen members

1405

~~who are in office on June 27, 1958, shall continue until June 30, 1963, and shall expire at that~~

1406

~~time. All successors from time to time, whether for a full term or for the remainder of an~~

1407

~~unexpired term,~~ shall be appointed ~~and commissioned~~ by the Governor after consideration of a

1408

list of ~~nominated trustees~~ nominees from the Museum submitted at least 60 days before the

1409 expiration of the member's term for which the nominations are being made. ~~The trustees~~
1410 ~~appointed to hold office beginning on July 1, 1963, shall be divided as nearly as may be, into~~
1411 ~~five equal groups, their terms of office to expire, respectively, one, two, three, four and five~~
1412 ~~years thereafter. All trustees subsequently appointed~~

1413 B. Nonlegislative citizen members shall ~~hold office~~ be appointed for ~~a term~~ terms of five
1414 years ~~unless appointed for the remainder of an unexpired term.~~

1415 No ~~person~~ nonlegislative citizen member shall be eligible to serve ~~consecutively for~~
1416 more than two ~~successive complete~~ consecutive five-year terms; however, a member appointed
1417 to serve an unexpired term shall be eligible to serve two consecutive five-year terms.

1418 C. Nine ~~trustees~~ members shall constitute a quorum at any meeting and a majority vote
1419 of those members present shall control in all matters.

1420 ~~§ 23-253.2. Bylaws; president of Museum.~~

1421 D. Such ~~trustees~~ The board shall adopt bylaws governing ~~their~~ its organization and
1422 procedure and may ~~from time to time~~ alter and amend the ~~same~~ bylaws.

1423 E. The ~~trustees~~ board shall elect one of ~~their~~ its members president of the Museum.

1424 ~~§ 23-253.3. Executive committee.~~

1425 ~~Such trustees~~ F. The board may ~~also~~ provide for an executive committee, composed of
1426 ~~not less than~~ at least three ~~trustees, which committee~~ members that may exercise the powers
1427 vested in it and perform the duties imposed upon ~~the trustees by this chapter to the extent~~
1428 ~~designated and permitted~~ it by the board.

1429 **Drafting note: The provisions of existing §§ 23-253.2 and 23-253.3 are incorporated**
1430 **into this proposed section as subsections D, E, and F, which includes broader provisions**
1431 **relating to membership of the board of trustees. Technical changes are made.**

1432 ~~§ 23-253.4 23.1-xxx. Authority of trustees generally~~ Powers of the board.

1433 ~~Such trustees are vested with full authority to~~ The board may:

- 1434 ~~(i) manage~~ 1. Manage, control, maintain, and operate the Museum, including ~~the its~~
1435 contents, furnishings, grounds funds, property, and endowments ~~thereof~~;
- 1436 ~~(ii) charge~~ 2. Charge for admission to the Museum ~~if deemed proper~~;
- 1437 ~~(iii) employ~~ 3. Employ such persons as may be necessary to manage, control, maintain,
1438 and operate the ~~same~~ Museum;
- 1439 ~~(iv) suspend or~~ 4. Consistent with subdivision 15 of § 2.2-2905, suspend and remove at
1440 ~~pleasure any person so employed~~ employees;
- 1441 ~~(v) determine what paintings, statuary and~~ 5. Determine which works of art ~~may shall~~ be
1442 kept, housed, or exhibited in the Museum;
- 1443 ~~(vi) acquire~~ 6. Acquire by purchase, gift, loan, or otherwise ~~paintings, statuary and~~
1444 works of art and ~~to~~ exchange or sell ~~the same~~ such works if not inconsistent with the terms of
1445 the purchase, gift, loan, or other acquisition ~~thereof~~;
- 1446 ~~(vii) enter~~ 7. Enter into agreements with organizations interested in art;
- 1447 ~~(viii) adopt~~ 8. Adopt a seal;
- 1448 ~~(ix) stimulate~~ 9. Stimulate and assist in the formation of new organizations;
- 1449 ~~(x) do~~ 10. Do such other things as ~~they deem it deems~~ proper to promote art education ~~in~~
1450 ~~the realm of art~~ throughout the Commonwealth through the Museum, ~~which is hereby~~
1451 ~~constituted and declared an educational institution, an institution of learning, and a public body~~
1452 ~~and instrumentality for the dissemination of education; and~~
- 1453 ~~(xi) receive~~ 11. Receive and administer on behalf of the Commonwealth gifts, bequests,
1454 and devises of real and personal property for the endowment of the Museum or ~~for~~ any special
1455 purpose designated by the donor;
- 1456 ~~The trustees are hereby authorized to change~~ 12. Change the form of investment of any
1457 funds, securities, or other property, real or personal, provided that the same are form is not
1458 inconsistent with the terms of the instrument under which the ~~same~~ property was acquired. The

1459 trustees may sell, grant, and convey any such property, but, in the case of real property, only by
1460 ~~and~~ with the written consent of the Governor.;

1461 ~~The trustees may from time to time confer~~ 13. Confer the honorary degree of patron of
1462 arts on any person who has, ~~in their opinion,~~ made an outstanding contribution ~~in the realm of~~ to
1463 art, ~~but not provided that no~~ more than two such degrees shall be conferred in any calendar year;
1464 and

1465 14. Adopt regulations to establish classes of membership in the Museum.

1466 B. Nothing in this section shall be construed to prohibit the assessment and levying of a
1467 service charge pursuant to the provisions of Chapter 34 (§ 58.1-3400 et seq.) of Title 58.1.

1468 C. The exercise ~~by the Museum~~ of the powers conferred on the board by this ~~chapter~~
1469 article shall be deemed ~~and held~~ to be the performance of an essential governmental function.

1470 **Drafting note: The provisions of existing § 23-253.5 are incorporated into this**
1471 **proposed section, which includes broader provisions relating to board powers. A portion**
1472 **of existing subdivision (x) is stricken here and incorporated instead into proposed § 23.1-**
1473 **xxx of Article 6. Existing § 23-253.5 is stricken and incorporated as subdivision A 14 of**
1474 **this proposed section. A substantive change is made in proposed subdivision A 4 to make**
1475 **clear that while the suspension and removal of most employees of the Museum are subject**
1476 **to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), certain employees**
1477 **identified as requiring specialized and professional training are exempt from the**
1478 **provisions of such act. Technical changes are made.**

1479 ~~§ 23-253.5. Classes of membership; testamentary disposition.~~

1480 ~~Such trustees are vested with full authority to establish classes of membership in the~~
1481 ~~Museum under such regulations as to them may seem proper. All members making a~~
1482 ~~contribution of \$1,000 or more prior to June 27, 1958, may dispose of their membership by last~~
1483 ~~will and testament.~~

1484 **Drafting note: The provisions of the first sentence of existing § 23-253.5 are**
1485 **stricken here and incorporated as subdivision A 14 in proposed § 23.1-xxx of Article 6.**
1486 **The second sentence of existing § 23-253.5 is stricken as obsolete.**

1487 § ~~23-253.6~~ 23.1-xxx. Authority of Art and Architectural Review Board.

1488 The Art and Architectural Review Board shall ~~have no power or authority to~~ not control,
1489 manage, or supervise in any way the ~~trustees board~~ in the exercise of ~~the its~~ powers and ~~the~~
1490 ~~performance of the~~ duties ~~provided for in this chapter~~ except that in the matter of additions,
1491 repairs, and alterations ~~of to~~ the exterior of the Museum itself building the Art and Architectural
1492 Review Board shall continue to exercise the powers now conferred on it by law, ~~which powers~~
1493 ~~are specifically reserved to the Board.~~

1494 **Drafting note: Technical changes are made. A substantive change is made to specify**
1495 **that the Art and Architectural Review Board is authorized to exercise powers conferred to**
1496 **it by law in relation to additions, repairs, and alterations to the exterior of the Museum.**
1497 **Existing law does not distinguish between the interior and the exterior of the building.**

1498 § ~~23-253.7~~ 23.1-xxx. Expenditures for current expenses; ~~annual report~~.

1499 All ~~money moneys~~ received by the ~~Museum board~~ for current expenses in conducting
1500 the Museum shall be paid into the state treasury ~~of Virginia~~, where it shall be set aside as a
1501 special fund for the operation of the Museum, ~~for which purpose such money is hereby~~
1502 ~~appropriated~~, to be paid by the State Treasurer on warrants of the Comptroller issued upon
1503 vouchers signed by the president of the Museum or his duly authorized agent. ~~The Museum~~
1504 ~~shall be deemed to be an institution of higher education within the meaning of §§ 23-3.1 and 23-~~
1505 9.2.

1506 § 23.1-xxx. Annual report.

1507 The ~~Board of Trustees board~~ shall submit an annual report to the Governor and General
1508 Assembly on or before November 1 of each year, ~~such report to contain~~ containing, at a

1509 | minimum, the annual financial statements of the Museum for the fiscal year ending the
1510 | preceding June 30.

1511 | **Drafting note: The provision in the first paragraph of existing § 23-253.7 declaring**
1512 | **the Museum an institution of higher education is stricken in this section and incorporated**
1513 | **instead into proposed § 23.1-xxx of Article 6. The provision on the annual report of the**
1514 | **board, the second paragraph of this existing section, is reorganized as a distinct section.**

1515 | Article 4.7.

1516 | Virginia Commission for the Arts and Virginia Arts Foundation.

1517 | **Drafting note: Existing Article 4 (§ 2.2-2508 et seq.) of Chapter 25 of Title 2.2 and**
1518 | **Article 1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2 are logically relocated to proposed**
1519 | **Chapter 32 and combined as proposed Article 7.**

1520 | § 2.2-2508 23.1-xxx. Virginia Commission for the Arts ~~established; official agency to~~
1521 | ~~receive and disburse funds from National Foundation on the Arts purpose; membership; terms;~~
1522 | ~~compensation.~~

1523 | A. The Virginia Commission for the Arts (the "Commission") is established as ~~an~~
1524 | advisory a supervisory commission within the meaning of § 2.2-2100; in the executive branch of
1525 | state government.

1526 | B. The Commission is designated the official agency of the Commonwealth to receive
1527 | and disburse any funds made available to the Commonwealth by the National Foundation on the
1528 | Arts.

1529 | C. The Commission shall consist of ~~thirteen~~ 13 members appointed by the Governor
1530 | subject to confirmation by the General Assembly. No employee of the Commonwealth or
1531 | member of the General Assembly shall be eligible for appointment as a member of the
1532 | Commission. At least one ~~member,~~ but no more than two members; shall be appointed from
1533 | each Congressional district in the Commonwealth.

1534 D. ~~Except for initial appointments, each member~~ Members shall ~~serve a five-year term;~~
1535 ~~provided that no member of the Commission who serves a full five-year term shall be eligible~~
1536 ~~for appointment during the five-year period following the expiration of his term~~ be appointed
1537 for one term of five years; however, a member appointed to serve an unexpired term shall be
1538 eligible to serve a full five-year term immediately succeeding the unexpired term. Appointments
1539 to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. ~~All~~
1540 ~~vacancies~~ Vacancies shall be filled ~~for the balance of the unexpired term~~ in the same manner as
1541 the original appointments. No member who serves a full five-year term shall be eligible for
1542 reappointment during the five-year period following the expiration of his term.

1543 E. The Commission shall ~~designate one of its members as~~ elect a chairman from among
1544 its membership.

1545 F. A majority of the members of the Commission shall constitute a quorum.

1546 ~~F. G.~~ The members of the Commission shall ~~not~~ receive ~~any~~ no compensation for their
1547 services; but shall be reimbursed for the reasonable and necessary expenses incurred in the
1548 discharge performance of their duties as provided in § 2.2-2825.

1549 **Drafting note: Technical changes.**

1550 § ~~2.2-2509~~ 23.1-xxx. Duties of the Commission.

1551 A. The Commission shall perform ~~among others~~ the following duties:

1552 1. Stimulate and encourage throughout the Commonwealth growth in artistic quality and
1553 excellence, public interest and participation in the arts, and access to high quality and affordable
1554 art for all Virginians;

1555 2. Make recommendations concerning appropriate methods to encourage economic
1556 viability, an intellectually stimulating environment for artists, and participation in and
1557 appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the
1558 Commonwealth;

1559 3. Promote the development and implementation of a planned, sequential, and
1560 comprehensive program of arts education, taught by licensed teachers endorsed in arts
1561 education, in the public elementary and secondary schools of the Commonwealth;

1562 4. Provide supplemental learning opportunities to the public school arts education
1563 curriculum;

1564 5. Encourage the development of a network of professional arts organizations, the media,
1565 and arts promoters, ~~including, but not limited to, the literary, visual, and performing arts~~ for the
1566 production of classical and new works of art; and diversity in artistic expressions in media
1567 including the literary, visual, and performing arts;

1568 6. Provide funding for and technical assistance to artists, recognized nonprofit arts
1569 organizations, and arts organizations and activities ~~which that~~ celebrate and preserve the various
1570 cultures represented among the citizens of the Commonwealth;

1571 7. Encourage and support the creation of new works of art, arts organizations whose
1572 primary objective is to increase public access to the arts, particularly in underserved areas, and
1573 performing arts tours to increase the availability of this form of artistic expression throughout
1574 the Commonwealth;

1575 8. Establish a program of financial assistance to provide scholarships, grants, and other
1576 awards to artists who demonstrate exceptional ability and talent;

1577 9. Establish an advisory panel composed of artists, art administrators, and citizens to
1578 advise the Commission concerning fiscal matters;

1579 10. Encourage arts organizations to dedicate to ~~endowment~~ their endowments at least
1580 one dollar of the price of each adult admission to performances or exhibitions or at least one
1581 percent of moneys collected in fund campaigns;

1582 11. Encourage arts organizations to develop and implement endowment enlargement
1583 plans ~~which that~~ yield enough income to underwrite one-third of the organizations' annual
1584 operating costs;

1585 12. Apply to and enter into contracts and agreements with the United States or any
1586 appropriate agency or officer of the United States for participation in or receipt of aid from any
1587 federal program respecting the arts, ~~and, in respect thereto, enter into contracts and agreements~~
1588 ~~with the United States or any appropriate agency thereof;~~

1589 13. Provide incentives to local ~~governments~~ governing bodies to encourage public
1590 support and funding of the arts;

1591 14. Accept gifts, contributions, and bequests of money or any other thing to be used for
1592 carrying out the purposes of this article;

1593 15. Develop specific procedures for the administration and implementation of a program,
1594 so long as any such program is for the benefit of a nonprofit organization, qualifying as a § ~~501~~
1595 ~~(e)-(3)~~ 501(c)(3) organization under the Internal Revenue Code, whereby interest earned on
1596 endowment funds donated to stimulate and encourage public interest and enjoyment of music
1597 and the performing arts may be matched by state funds appropriated for this program, and
1598 prepare written guidelines to govern such program; and

1599 16. Administer any funds available to the Commission and disburse such funds in
1600 accordance with the purposes of this article. In allocating funds to be disbursed to arts
1601 organizations, the Commission shall give preferential consideration to arts organizations
1602 actively implementing an endowment enlargement plan; either individually or as members of a
1603 regional consortium of arts organizations.

1604 B. Nothing in this article shall be construed to affect the statutory purposes of the
1605 Virginia Museum of Fine Arts.

1606 **Drafting note: Technical changes.**

1607 § ~~2.2-2510~~ 23.1-xxx. ~~Agency supervision; employment of personnel; budget preparation~~
1608 Director of the Commission.

1609 The Governor may appoint a ~~Director~~ director of the Commission who shall serve at his
1610 pleasure. The ~~Director~~ director may employ the personnel required to assist the Commission in

1611 the exercise and performance of its powers and duties. The ~~Director~~ director shall supervise and
1612 manage such personnel and shall prepare, approve, and submit all requests for appropriations;
1613 and be responsible for all expenditures pursuant to appropriations.

1614 **Drafting note: Technical changes.**

1615 Article 1.

1616 Virginia Arts Foundation.

1617 **Drafting note: Existing Article 1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2 and**
1618 **Article 4 (§ 2.2-2508 et seq.) of Chapter 25 of Title 2.2 above are logically relocated to**
1619 **proposed Chapter 32 and combined as proposed Article 7.**

1620 § ~~2.2-2700~~ 23.1-xxx. Virginia Arts Foundation established; board of trustees;
1621 compensation; staff.

1622 A. The Virginia Arts Foundation (the "Foundation"); is established to serve as ~~an~~
1623 advisory a supervisory foundation; within the meaning of § 2.2-2100, in the executive branch of
1624 state government and shall be deemed a body politic and corporate to be organized and to have
1625 such powers ~~and duties~~ as provided in ~~this article~~ § 23.1-xxx.

1626 B. The Foundation shall be governed by a board of trustees (the board), consisting of the
1627 members of the Virginia Commission for the Arts.

1628 C. Any person designated by the board ~~of trustees~~ to handle the funds of the Foundation
1629 shall give bond, with corporate surety, in a penalty fixed by the Governor, conditioned upon the
1630 faithful discharge of his duties. Any premium on the bond shall be paid from funds available to
1631 the Foundation.

1632 D. The board ~~of trustees~~, acting as members of the Virginia Commission for the Arts,
1633 shall be entitled to reimbursement for all actual and necessary expenses; as provided by § ~~2.2-~~
1634 ~~2509~~ 23.1-xxx.

1635 E. The Director of the Virginia Commission for the Arts shall serve as the chairman; and
1636 the staff of such Commission shall serve as staff for the Foundation.

1637 **Drafting note: Technical changes.**

1638 § ~~2.2-2704~~ 23.1-xxx. Powers of the Foundation.

1639 The Foundation may:

1640 1. Make expenditures from the Fund's interest and income to assist (i) the Virginia

1641 Commission for the Arts in promoting the arts in the Commonwealth in accordance with § ~~2.2-~~

1642 ~~2704~~ 23.1-xxx and ~~to assist~~ (ii) not-for-profit arts and cultural institutions and organizations

1643 within the Commonwealth to assess, enhance, and plan for enhancement of their fiscal stability,

1644 financial management ~~and~~, control capabilities, and capacity to raise funds for the furtherance of

1645 their respective missions from nongovernmental sources;

1646 2. Accept, hold, and administer gifts and bequests of money, securities, or other

1647 property, absolutely or in trust, for the purposes for which the Foundation is created;

1648 3. Enter into contracts and execute all instruments necessary and appropriate to carry out

1649 the Foundation's purposes;

1650 4. Explore and make recommendations concerning other possible dedicated revenue

1651 sources for the Fund; and

1652 5. Perform any lawful acts necessary or appropriate to carry out the purposes of the

1653 Foundation.

1654 **Drafting note: Technical changes.**

1655 § ~~2.2-2702~~ 23.1-xxx. Virginia Arts Foundation Fund.

1656 A. There is hereby created in the state treasury a special nonreverting fund to be known

1657 as the Virginia Arts Foundation Fund, ~~a special nonreverting trust fund, referred to in this~~

1658 section as "the Fund." The Fund shall be established on the books of the Comptroller, ~~to be~~

1659 administered by the Foundation.

1660 B. The Fund shall include such funds as may be appropriated by the General Assembly;

1661 revenues transferred to the Fund from the special license plates for Virginians for the Arts

1662 program pursuant to § 46.2-749.2:2; voluntary contributions collected through the income tax

1663 checkoff for the arts pursuant to subdivision B 8 of § 58.1-344.3; and designated gifts,
1664 contributions, and bequests of money, securities, or ~~other~~ property of ~~whatsoever~~ any other
1665 character.

1666 C. All money, securities, or other property designated for the Fund ~~and any interest or~~
1667 income therefrom shall be paid into the state treasury and credited to the Fund. Interest earned
1668 on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
1669 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general
1670 fund but shall remain in the Fund ~~and shall not revert to the general fund. Expenditures and~~
1671 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
1672 Comptroller upon written request signed by persons authorized by the Foundation. The Fund's
1673 principal shall not be subject to expenditure by the Foundation.

1674 **Drafting note: Technical changes.**

1675 ~~§ 2.2-2703. Expired.~~

1676 **Drafting note: This section was derived from former § 9-84.09:4, as amended by**
1677 **Acts 1997, c. 878, and amended by Acts 2000, c. 27, and expired by its own terms on June**
1678 **30, 2001.**

1679 ~~§ 2.2-2704~~ 23.1-xxx. Gifts and bequests; exemption from taxation.

1680 Gifts and bequests of money, securities, or other property to the Fund, and the interest or
1681 income ~~therefrom~~ from such gifts and bequests, shall be deemed gifts to the Commonwealth,
1682 and the Fund shall be exempt from all state and local taxes. Unless otherwise restricted by the
1683 terms of the gift or bequest, the Foundation may sell, exchange, or otherwise dispose of such
1684 gifts and bequests. The proceeds from such transactions shall be deposited to the credit of the
1685 Fund. The Foundation shall not actively solicit private donations for the Fund; however, this
1686 limitation shall not prevent the Foundation from actively encouraging financial support for the
1687 Foundation through the special license plate and income tax checkoff programs.
1688 Notwithstanding any other provision of this section, the Foundation may accept and solicit

