

25103613D

SENATE BILL NO. 949

Offered January 8, 2025

Prefiled January 6, 2025

A *BILL to amend and reenact §§ 2.2-234, 2.2-401.01, 2.2-1149, 2.2-1604, 2.2-2699.10, 2.2-4310, 10.1-104.02, 10.1-659, 10.1-1003, 10.1-1018, 10.1-1020, 10.1-1186.3:1, 10.1-1188, 10.1-2202.5, 10.1-2205.1, 10.1-2206.1, 10.1-2214, 10.1-2305, 15.2-4202, 15.2-4203, 20-88.32, 20-146.1, 22.1-254, 24.2-128, 28.2-104.01, 28.2-302.5, 29.1-301, 29.1-401, 29.1-521, 32.1-272, 36-105.5, 51.1-700, 56-46.1, 56-576, 58.1-2201, 58.1-2403, 59.1-480, 62.1-266, 64.2-701, 64.2-2100, and 64.2-2600 of the Code of Virginia and to amend the Code of Virginia by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of sections numbered 2.2-6100 and 2.2-6101, relating to definitions; American Indians; Virginia recognized tribes; federally recognized tribes; sovereignty.*

Patrons—McDougle and Craig; Delegate: Krizek

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-234, 2.2-401.01, 2.2-1149, 2.2-1604, 2.2-2699.10, 2.2-4310, 10.1-104.02, 10.1-659, 10.1-1003, 10.1-1018, 10.1-1020, 10.1-1186.3:1, 10.1-1188, 10.1-2202.5, 10.1-2205.1, 10.1-2206.1, 10.1-2214, 10.1-2305, 15.2-4202, 15.2-4203, 20-88.32, 20-146.1, 22.1-254, 24.2-128, 28.2-104.01, 28.2-302.5, 29.1-301, 29.1-401, 29.1-521, 32.1-272, 36-105.5, 51.1-700, 56-46.1, 56-576, 58.1-2201, 58.1-2403, 59.1-480, 62.1-266, 64.2-701, 64.2-2100, and 64.2-2600 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of sections numbered 2.2-6100 and 2.2-6101, as follows:

§ 2.2-234. Definitions.

For purposes of this article, unless the context requires a different meaning:

"Community of color" means any geographically distinct area where the population of color, expressed as a percentage of the total population of such area, is higher than the population of color in the Commonwealth expressed as a percentage of the total population of the Commonwealth. However, if a community of color is composed primarily of one of the groups listed in the definition of "population of color," the percentage population of such group in the Commonwealth shall be used instead of the percentage population of color in the Commonwealth.

"Environment" means the natural, cultural, social, economic, and political assets or components of a community.

"Environmental justice" means the fair treatment and meaningful involvement of every person, regardless of race, color, national origin, income, faith, or disability, regarding the development, implementation, or enforcement of any environmental law, regulation, or policy.

"Environmental justice community" means any low-income community or community of color.

"Fair treatment" means the equitable consideration of all people whereby no group of people bears a disproportionate share of any negative environmental consequence resulting from an industrial, governmental, or commercial operation, program, or policy.

"Fenceline community" means an area that contains all or part of a low-income community or community of color and that presents an increased health risk to its residents due to its proximity to a major source of pollution.

"Low income" means having an annual household income equal to or less than the greater of (i) an amount equal to 80 percent of the median income of the area in which the household is located, as reported by the Department of Housing and Urban Development, and (ii) 200 percent of the Federal Poverty Level.

"Low-income community" means any census block group in which 30 percent or more of the population is composed of people with low income.

"Meaningful involvement" means the requirements that (i) affected and vulnerable community residents have access and opportunities to participate in the full cycle of the decision-making process about a proposed activity that will affect their environment or health and (ii) decision makers will seek out and consider such participation, allowing the views and perspectives of community residents to shape and influence the decision.

"Population of color" means a population of individuals who identify as belonging to one or more of the following groups: Black, African American, Asian, Pacific Islander, ~~Native~~ American Indian, other non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

58 "State agency" means any agency, authority, institution, board, bureau, commission, council, or
 59 instrumentality of state government in the executive branch of government.

60 **§ 2.2-401.01. Liaison to Virginia American Indian tribes; Ombudsman for Tribal Consultation;**
 61 **Virginia Indigenous People's Trust Fund.**

62 A. The Secretary of the Commonwealth shall:

- 63 1. Serve as the Governor's liaison to the Virginia ~~Indian~~ *recognized* tribes;
- 64 2. Designate an Ombudsman for Tribal Consultation pursuant to subsection B; and
- 65 3. Report annually on the status of *American* Indian tribes in Virginia.

66 B. The Secretary of the Commonwealth shall designate, in consultation with and upon the advice of
 67 federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes*, an Ombudsman for Tribal Consultation (the
 68 Ombudsman). The Ombudsman shall:

69 1. Facilitate communication between federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* and
 70 relevant state agencies and local governments for consultation on environmental, cultural, and historical
 71 permits and reviews;

72 2. Develop a list of localities in ongoing consultation with the federally recognized ~~Tribal Nations~~ *tribes*
 73 in which federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* shall be consulted regarding
 74 actions and projects pursuant to §§ 10.1-104.02, 10.1-1186.3:1, 10.1-2205.1, and 28.2-104.01;

75 3. Assist the Department of Environmental Quality, the Department of Conservation and Recreation, the
 76 Department of Historic Resources, and the Virginia Marine Resources Commission in developing policies
 77 and procedures to ensure meaningful and appropriate consultation with federally recognized ~~Tribal Nations in~~
 78 ~~the Commonwealth~~ *tribes* regarding permits and reviews; and

79 4. Make recommendations to the Governor about additional permits and reviews that, in the opinion of the
 80 Ombudsman, should require consultation with federally recognized ~~Tribal Nations in the Commonwealth~~
 81 *tribes*.

82 C. The Secretary of the Commonwealth may establish a Virginia *American* Indian advisory board to assist
 83 the Secretary in reviewing applications seeking recognition as a Virginia ~~Indian~~ *recognized* tribe and to make
 84 recommendations to the Secretary, the Governor, and the General Assembly on such applications and other
 85 matters relating to recognition as follows:

86 1. The members of any such board shall be composed of no more than seven members to be appointed by
 87 the Secretary as follows: at least three of the members shall be members *or citizens* of Virginia recognized
 88 tribes to represent the Virginia *American* Indian community, and one nonlegislative citizen member shall
 89 represent the Commonwealth's scholarly community. The Librarian of Virginia, the Director of the
 90 Department of Historic Resources, and the Superintendent of Public Instruction, or their designees, shall
 91 serve ex officio with voting privileges. Nonlegislative citizen members of any such board shall be citizens of
 92 the Commonwealth. Ex officio members shall serve terms coincident with their terms of office.
 93 Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies,
 94 other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. The
 95 Secretary of the Commonwealth shall appoint a chairperson from among the members for a two-year term.
 96 Members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their
 97 duties as provided in §§ 2.2-2813 and 2.2-2825.

98 2. Any such board shall have the following powers and duties:

99 a. Establish guidance for documentation required to meet the criteria for full recognition of ~~the Virginia~~
 100 *American* Indian tribes *in Virginia* that is consistent with the principles and requirements of federal tribal
 101 recognition;

102 b. Establish a process for accepting and reviewing all applications for ~~full tribal~~ recognition *as a Virginia*
 103 *recognized tribe*;

104 c. Appoint and establish a workgroup on tribal recognition composed of nonlegislative citizens at large
 105 who have knowledge of ~~Virginia~~ *American* Indian history and *the current status of American Indian tribes in*
 106 *Virginia*. Such workgroup (i) may be activated in any year in which an application for full tribal recognition
 107 has been submitted and in other years as deemed appropriate by any such board and (ii) shall include at a
 108 minimum a genealogist and at least two scholars with recognized familiarity with ~~Virginia~~ *American* Indian
 109 tribes *in Virginia*. No member of the workgroup shall be associated in any way with the applicant. Members
 110 of the workgroup shall be reimbursed for reasonable and necessary expenses incurred in the performance of
 111 their duties as provided in §§ 2.2-2813 and 2.2-2825;

112 d. Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal
 113 property for the purpose of aiding or facilitating the work of the board;

114 e. Make recommendations to the Secretary for full tribal recognition based on the findings of the
 115 workgroup and the board; and

116 f. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the
 117 objectives of this subsection.

118 D. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia

119 Indigenous People's Trust Fund, referred to in this section as "the Fund." The Fund shall be established on the
 120 books of the Comptroller. All funds appropriated for such purpose, any tax revenue accruing to the Fund
 121 pursuant to § 58.1-4125, and any gifts, donations, grants, bequests, and other funds received on its behalf
 122 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall
 123 remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the
 124 end of each fiscal year shall not revert to the general fund but shall remain in the Fund. After payment of the
 125 costs of administration of the Fund, moneys in the Fund shall be used to make disbursements on a quarterly
 126 basis in equal amounts to each of the six ~~Virginia Indian tribes~~ federally recognized *tribes recognized* under
 127 P.L. 115-121 of 2018. Expenditures and disbursements from the Fund shall be made by the State Treasurer
 128 on warrants issued by the Comptroller upon written request signed by the Secretary of the Commonwealth.

129 *E. For the purposes of this section, the terms "American Indian," "federally recognized tribe," and*
 130 *"Virginia recognized tribe" mean the same as those terms are defined in § 2.2-6100.*

131 **§ 2.2-1149. Department to review proposed acquisitions of real property; approval by the**
 132 **Governor; exceptions.**

133 Notwithstanding any provision of law to the contrary, no state department, agency or institution shall
 134 acquire real property by gift, lease, purchase or any other means or use or occupy real property without
 135 following the guidelines adopted by the Department and obtaining the prior approval of the Governor. The
 136 Department shall review every proposed acquisition of real property by gift, lease, purchase or any other
 137 means and every proposed use or occupancy of real property by any department, agency or institution of the
 138 Commonwealth and recommend either approval or disapproval of the transactions to the Governor based on
 139 cost, demonstrated need, and compliance with the Department's guidelines.

140 The provisions of this section shall not apply to the:

141 1. Acquisition of real property for open space preservations pursuant to the purposes of § 10.1-1800 and
 142 subdivision A 4 of § 10.1-2204, if it does not require as a condition of acceptance, an appropriation of any
 143 state funds for the continued maintenance of such property;

144 2. Acquisition of easements pursuant to the purposes of §§ 10.1-1020 and 10.1-1021 or §§ 10.1-1700,
 145 10.1-1702, and 10.1-1702;

146 3. Acquisition through the temporary lease or donation of real property for a period of six months or less
 147 duration;

148 4. Acquisition of easements by public institutions of higher education provided that the particular
 149 institution meets the conditions prescribed in subsection A of § 23.1-1002;

150 5. Entering into an operating/income lease or a capital lease by a public institution of higher education, for
 151 real property to be used for academic purposes, or for real property owned by the institution or a foundation
 152 related to the institution to be used for non-academic purposes, in accordance with the institution's land use
 153 plan pursuant to § 2.2-1153 provided that (i) the capital lease does not constitute tax-supported debt of the
 154 Commonwealth, (ii) the institution meets the conditions prescribed in subsection A of § 23.1-1002, and (iii)
 155 for purposes of entering into a capital lease, the institution shall have in effect a signed memorandum of
 156 understanding with the Secretary of Administration regarding participation in the nongeneral fund
 157 decentralization program as set forth in the appropriation act. For the purposes of this subdivision, an
 158 operating/income lease or a capital lease shall be determined using generally accepted accounting principles;

159 6. Acquisition of real property for the construction, improvement or maintenance of highways and
 160 transportation facilities and purposes incidental thereto by the Department of Transportation; however,
 161 acquisitions of real property by the Department of Transportation for office space, district offices,
 162 residencies, area headquarters, or correctional facilities shall be subject to the Department's review and the
 163 Governor's approval;

164 7. Acquisition of real estate or rights-of-way for the construction, improvement, or maintenance of
 165 railway lines or rail or public transportation facilities or the retention of rail corridors for public purposes
 166 associated with the efforts of the Department of Rail and Public Transportation; however, acquisitions of real
 167 estate or rights-of-way by the Department of Rail and Public Transportation for office space or district offices
 168 shall be subject to review by the Department and the approval of the Governor; or

169 8. Acquisition of real property to be held in trust for the benefit of a ~~state-recognized Indian~~ *Virginia*
 170 *recognized* tribe, provided that such property is (i) annexed into the existing reservation of such tribe and (ii)
 171 located within a one-mile radius of the boundary of such reservation. However, these acquisitions of real
 172 estate shall be subject to the review of the Office of the Attorney General and the approval by the Governor.

173 **§ 2.2-1604. Definitions.**

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

175 "Certification" means the process by which (i) a business is determined to be a small, women-owned, or
 176 minority-owned business or (ii) an employment services organization, for the purpose of reporting small,
 177 women-owned, and minority-owned business and employment services organization participation in state
 178 contracts and purchases pursuant to §§ 2.2-1608 and 2.2-1610.

179 "Department" means the Department of Small Business and Supplier Diversity or any division of the

180 Department to which the Director has delegated or assigned duties and responsibilities.

181 "Employment services organization" means an organization that provides community-based employment
182 services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation
183 Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

184 "Historically black colleges and university" includes any college or university that was established prior to
185 1964; whose principal mission was, and is, the education of black Americans; and that is accredited by a
186 nationally recognized accrediting agency or association determined by the Secretary of Education.

187 "Minority individual" means an individual who is a citizen of the United States or a legal resident alien
188 and who satisfies one or more of the following definitions:

189 1. "African American" means a person having origins in any of the original peoples of Africa and who is
190 regarded as such by the community of which this person claims to be a part.

191 2. "Asian American" means a person having origins in any of the original peoples of the Far East,
192 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,
193 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the
194 Pacific, India, Pakistan, Bangladesh, or Sri Lanka, and who is regarded as such by the community of which
195 this person claims to be a part.

196 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico,
197 South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is
198 regarded as such by the community of which this person claims to be a part.

199 4. "~~Native~~ American *Indian*" means a person having origins in any of the original peoples of North
200 America and who is regarded as such by the community of which this person claims to be a part or who is
201 recognized by a tribal organization.

202 "Minority-owned business" means a business that is at least 51 percent owned by one or more minority
203 individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or
204 limited liability company or other entity, at least 51 percent of the equity ownership interest in the
205 corporation, partnership, or limited liability company or other entity is owned by one or more minority
206 individuals who are U.S. citizens or legal resident aliens, and both the management and daily business
207 operations are controlled by one or more minority individuals, or any historically black college or university,
208 regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or
209 limited liability company or other entity, the equity ownership interest in the corporation, partnership, or
210 limited liability company or other entity.

211 "Small business" means a business that is at least 51 percent independently owned and controlled by one
212 or more individuals, or in the case of a cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et
213 seq.) of Title 13.1 as a nonstock corporation, is at least 51 percent independently controlled by one or more
214 members, who are U.S. citizens or legal resident aliens and, together with affiliates, has 250 or fewer
215 employees or average annual gross receipts of \$10 million or less averaged over the previous three years. One
216 or more of the individual owners or members shall control both the management and daily business
217 operations of the small business.

218 "State agency" means any authority, board, department, instrumentality, institution, agency, or other unit
219 of state government. "State agency" does not include any county, city, or town.

220 "SWaM" means small, women-owned, or minority-owned or related to a small, women-owned, or
221 minority-owned business.

222 "SWaM plan" means a written program, plan, or progress report submitted by a state agency to the
223 Department pursuant to § 2.2-4310.

224 "Women-owned business" means a business that is at least 51 percent owned by one or more women who
225 are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability
226 company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women
227 who are U.S. citizens or legal resident aliens, and both the management and daily business operations are
228 controlled by one or more women.

229 **§ 2.2-2699.10. Membership; terms; quorum; meetings.**

230 A. The Council shall have a total membership of 27 members that shall consist of 21 nonlegislative citizen
231 members and six ex officio members. Nonlegislative citizen members shall be appointed by the Governor.
232 The Secretaries of Natural and Historic Resources, Commerce and Trade, Agriculture and Forestry, Health
233 and Human Resources, Education, and Transportation, or their designees, including their agency
234 representatives, shall serve ex officio with nonvoting privileges. Nonlegislative citizen members of the
235 Council shall be residents of the Commonwealth and shall include representatives of (i) ~~American Indian~~
236 *Virginia recognized* tribes, (ii) community-based organizations, (iii) the public health sector, (iv)
237 nongovernmental organizations, (v) civil rights organizations, (vi) institutions of higher education, and (vii)
238 communities impacted by an industrial, governmental, or commercial operation, program, or policy.

239 Ex officio members of the Council shall serve terms coincident with their terms of office. Appointments
240 to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled

241 in the same manner as the original appointments. After the initial staggering of terms, nonlegislative citizen
242 members shall be appointed for a term of four years.

243 B. The Council shall elect a chairperson and vice-chairperson annually from among the membership of
244 the Council. A majority of the members shall constitute a quorum. The meetings of the Council shall be held
245 at the call of the chairperson or whenever the majority of the members so request.

246 C. The Council shall meet quarterly and shall establish a meeting schedule on an annual basis. When
247 possible, the location of the meetings shall rotate among different geographic regions. When possible,
248 meetings shall be broadcast on the Internet or via teleconference. Each meeting shall include an in-person
249 public comment component.

250 The Council may provide for the creation of subcommittees. Any subcommittee meetings shall be
251 scheduled with notification to the full Council.

252 **§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and**
253 **service disabled veteran-owned businesses and employment services organizations.**

254 A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or
255 offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age,
256 disability, status as a service disabled veteran, or any other basis prohibited by state law relating to
257 discrimination in employment. Whenever solicitations are made, each public body shall include businesses
258 selected from a list made available by the Department of Small Business and Supplier Diversity, which list
259 shall include all companies and organizations certified by the Department.

260 B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of
261 small businesses, businesses owned by women, minorities, and service disabled veterans, and employment
262 services organizations in procurement transactions. The programs established shall be in writing and shall
263 comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to
264 subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1,
265 and shall include specific plans to achieve any goals established therein. State agencies shall submit annual
266 progress reports on (i) small, women-owned, and minority-owned business procurement, (ii) service disabled
267 veteran-owned business procurement, and (iii) employment services organization procurement to the
268 Department of Small Business and Supplier Diversity in a form specified by the Department of Small
269 Business and Supplier Diversity. All state agencies shall cooperate with the Department of Small Business
270 and Supplier Diversity's annual review of their programs pursuant to § 2.2-1605 and shall update such
271 programs to incorporate any feedback and suggestions for improvement. Contracts and subcontracts awarded
272 to employment services organizations and service disabled veteran-owned businesses shall be credited toward
273 the small business, women-owned, and minority-owned business contracting and subcontracting goals of
274 state agencies and contractors. The Department of Small Business and Supplier Diversity shall make
275 information on service disabled veteran-owned procurement available to the Department of Veterans Services
276 upon request.

277 C. Whenever there exists (i) a rational basis for small business or employment services organization
278 enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the
279 availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and
280 encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent
281 with prevailing law. Any enhancement or remedial measure authorized by the Governor pursuant to this
282 subsection for state public bodies may allow for small businesses certified by the Department of Small
283 Business and Supplier Diversity or a subcategory of small businesses established as a part of the
284 enhancement program to have a price preference over noncertified businesses competing for the same
285 contract award on designated procurements, provided that the bid of the certified small business or the
286 business in such subcategory of small businesses established as a part of an enhancement program does not
287 exceed the low bid by more than five percent.

288 D. In awarding a contract for services to a small, women-owned, or minority-owned business that is
289 certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled
290 veteran-owned business where the award is being made pursuant to an enhancement or remedial program as
291 provided in subsection C, the public body shall include in every such contract of more than \$10,000 the
292 following:

293 "If the contractor intends to subcontract work as part of its performance under this contract, the contractor
294 shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service
295 disabled veteran-owned businesses."

296 E. In the solicitation or awarding of contracts, no state agency, department, or institution shall
297 discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state
298 agency, department, or institution has made a written determination that employing ex-offenders on the
299 specific contract is not in its best interest.

300 F. As used in this section:

301 "Employment services organization" means an organization that provides community-based employment

302 services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation
 303 Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

304 "Minority individual" means an individual who is a citizen of the United States or a legal resident alien
 305 and who satisfies one or more of the following definitions:

306 1. "African American" means a person having origins in any of the original peoples of Africa and who is
 307 regarded as such by the community of which this person claims to be a part.

308 2. "Asian American" means a person having origins in any of the original peoples of the Far East,
 309 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,
 310 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the
 311 Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which
 312 this person claims to be a part.

313 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico,
 314 South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is
 315 regarded as such by the community of which this person claims to be a part.

316 4. "Native American Indian" means a person having origins in any of the original peoples of North
 317 America and who is regarded as such by the community of which this person claims to be a part or who is
 318 recognized by a tribal organization.

319 "Minority-owned business" means a business that is at least 51 percent owned by one or more minority
 320 individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or
 321 limited liability company or other entity, at least 51 percent of the equity ownership interest in the
 322 corporation, partnership, or limited liability company or other entity is owned by one or more minority
 323 individuals who are U.S. citizens or legal resident aliens, and both the management and daily business
 324 operations are controlled by one or more minority individuals, or any historically black college or university
 325 as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a
 326 corporation, partnership, or limited liability company or other entity, the equity ownership interest in the
 327 corporation, partnership, or limited liability company or other entity.

328 "Service disabled veteran" means a veteran who (i) served on active duty in the United States military
 329 ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and
 330 (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

331 "Service disabled veteran business" means a business that is at least 51 percent owned by one or more
 332 service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other
 333 entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability
 334 company or other entity is owned by one or more individuals who are service disabled veterans and both the
 335 management and daily business operations are controlled by one or more individuals who are service disabled
 336 veterans.

337 "Small business" means a business, independently owned and controlled by one or more individuals, or in
 338 the case of a cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et seq.) of Title 13.1 as a
 339 nonstock corporation, controlled by one or more members, who are U.S. citizens or legal resident aliens, and
 340 together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged
 341 over the previous three years. One or more of the individual owners or members shall control both the
 342 management and daily business operations of the small business.

343 "State agency" means any authority, board, department, instrumentality, institution, agency, or other unit
 344 of state government. "State agency" shall not include any county, city, or town.

345 "Women-owned business" means a business that is at least 51 percent owned by one or more women who
 346 are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability
 347 company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women
 348 who are U.S. citizens or legal resident aliens, and both the management and daily business operations are
 349 controlled by one or more women.

350

PART D.

STATE AND TRIBAL RELATIONS

CHAPTER 61.

GENERAL PROVISIONS.

§ 2.2-6100. Definitions.

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

356 "American Indian" means a duly enrolled member or citizen of a federally recognized tribe or Virginia
 357 recognized tribe.

358 "Federally recognized tribe" means a Virginia recognized tribe that is recognized by the United States
 359 Secretary of the Interior to exist as a tribe under the federal Federally Recognized Indian Tribe List Act of
 360 1994 (25 U.S.C. § 5131).

361 "Virginia recognized tribe" means an American Indian tribe within the present-day external boundaries of
 362 the Commonwealth, regardless of federal recognition status, that is formally acknowledged by the

363 Commonwealth to exist as a tribe as reported by the Secretary of the Commonwealth pursuant to §
364 2.2-401.01.

365 **§ 2.2-6101. Sovereignty of federally recognized tribes.**

366 The Commonwealth hereby acknowledges the inherent sovereignty of federally recognized tribes within
367 the present-day external boundaries of the Commonwealth. Nothing in this chapter alters or diminishes the
368 sovereignty of the Commonwealth or any federally recognized tribe in Virginia, or the rights or obligations of
369 parties under state, tribal, or federal law. The Commonwealth endeavors to maintain positive
370 government-to-government relationships with the federally recognized tribes within the present-day external
371 boundaries of the Commonwealth.

372 **§ 10.1-104.02. Policies for consultation with federally recognized tribes in the Commonwealth.**

373 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
374 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
375 for meaningful and appropriate written consultation with potentially impacted federally recognized Tribal
376 Nations in the Commonwealth tribes regarding certain major actions or permits issued by the Department.
377 The Department shall designate an agency official to evaluate the adequacy of consultation and ensure that
378 agency consultation practices are consistent. Actions and permits appropriate for consultation shall include
379 the projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
380 federally recognized Tribal Nations in the Commonwealth tribes based on tribal preferences, ensure that
381 sufficient information and time is provided for the federally recognized Tribal Nations in the Commonwealth
382 tribes to fully engage in consultation regarding the proposed action, and establish procedures for the
383 Department to provide feedback to the federally recognized Tribal Nations in the Commonwealth tribes to
384 explain how their input was considered. Should feedback from the federally recognized Tribal Nations in the
385 Commonwealth tribes not be received by the deadline established in the Department's policies and
386 procedures, the consultation provisions of this section shall be deemed fulfilled.

387 B. The following actions and projects are subject to consultation as set forth in subsection A: (i) cave
388 collection permits, issued pursuant to the Cave Protection Act (§ 10.1-1000 et seq.), for permit applications
389 pertaining to the study, extraction, or removal of any archaeological or historic feature in a cave in a locality
390 identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2 of § 2.2-401.01 and (ii)
391 Virginia-regulated impounding structures permits issued pursuant to 4VAC50-20-70 and 4VAC50-20-80 in a
392 locality identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2 of § 2.2-401.01.

393 C. For the purposes of this section, the term "federally recognized tribe" has the same meaning as that
394 term is defined in § 2.2-6100.

395 **§ 10.1-659. Flood protection programs; coordination.**

396 A. The provisions of this chapter shall be coordinated with the Virginia Coastal Resilience Master Plan,
397 the Virginia Flood Protection Master Plan, and federal, state, and local flood prevention and water quality
398 programs to minimize loss of life, property damage, and negative impacts on the environment. This program
399 coordination shall include but not be limited to the following: flood prevention, flood plain management,
400 small watershed protection, dam safety, shoreline erosion and public beach preservation, and soil
401 conservation programs of the Department of Conservation and Recreation; the construction activities of the
402 Department of Transportation, including projects that result in hydrologic modification of rivers, streams, and
403 flood plains; the nontidal wetlands, water quality, Chesapeake Bay Preservation Area criteria, stormwater
404 management, erosion and sediment control, and other water management programs of the State Water
405 Control Board; the Virginia Coastal Zone Management Program at the Department of Environmental Quality;
406 forested watershed management programs of the Department of Forestry; the agricultural stewardship,
407 farmland preservation, and disaster assistance programs of the Department of Agriculture and Consumer
408 Services; the statewide building code and other land use control programs of the Department of Housing and
409 Community Development; the habitat management programs of the Virginia Marine Resources Commission;
410 the hazard mitigation planning and disaster response programs of the Department of Emergency
411 Management; the fish and wildlife habitat protection programs of the Department of Wildlife Resources; the
412 mineral extraction regulatory program of the Department of Energy; the flood plain restrictions of the
413 Virginia Waste Management Board; flooding-related research programs of the state universities; local
414 government assistance programs of the Virginia Soil and Water Conservation Board; the Virginia Antiquities
415 Act program of the Department of Historic Resources; the public health and preparedness programs of the
416 Virginia Department of Health; the State Council of Higher Education for Virginia; the State Corporation
417 Commission; and any other state agency programs deemed necessary by the Director, and the Chief
418 Resilience Officer of the Commonwealth. The Department shall also coordinate with soil and water
419 conservation districts, Virginia Cooperative Extension agents, and planning district commissions, and shall
420 coordinate and cooperate with localities in rendering assistance to such localities in their efforts to comply
421 with the planning, subdivision of land, and zoning provisions of Chapter 22 (§ 15.2-2200 et seq.) of Title
422 15.2.

423 B. The Director, in coordination with the Chief Resilience Officer of the Commonwealth, shall hold

424 meetings of representatives of the programs, entities, and localities described in subsection A at least annually
425 in order to determine, coordinate, and prioritize the Commonwealth's efforts and expenditures to increase
426 flooding resilience and flood preparedness and to implement the Virginia Coastal Resilience Master Plan and
427 the Virginia Flood Protection Master Plan. The Department shall review any revisions to the Virginia Flood
428 Protection Master Plan and provide an update on the progress of the implementation of the Virginia Coastal
429 Resilience Master Plan at any such meetings. The Department shall cooperate with other public and private
430 agencies having flood plain management programs and shall coordinate its responsibilities under this article
431 and any other law. These activities shall constitute the Commonwealth's flood resilience, preparedness,
432 prevention, and protection program.

433 C. (Expires February 1, 2025)

434 1. The Director, in coordination with the Chief Resilience Officer of the Commonwealth, shall establish
435 the Virginia Coastal Resilience Technical Advisory Committee (the Committee) to assist with developing,
436 updating, and implementing the Virginia Coastal Resilience Master Plan.

437 2. The Committee shall be composed of representatives of state agencies, coastal planning district
438 commissions, regional commissions, academic advisors, and any other representatives as needed. Members
439 shall serve at the pleasure of the Governor and shall include the following individuals or their designees: the
440 executive directors of coastal planning district commissions and regional commissions; the Director; the
441 Chief Resilience Officer of the Commonwealth; the Director of the Virginia Department of Emergency
442 Management; the Director of the Virginia Department of Housing and Community Development; the
443 Executive Director of the Virginia Resources Authority; the Director of the Department of Environmental
444 Quality; the Commissioner of the Virginia Department of Transportation; the Director of the Virginia
445 Transportation Research Council; the Commissioner of Marine Resources; the Director of the Institute for
446 Coastal Adaptation and Resilience; the Associate Dean for Research and Advisory Services at the Virginia
447 Institute of Marine Science; the Director of the Virginia Coastal Resilience Collaborative at the College of
448 William and Mary in Virginia; the Director of the Virginia Tech Center for Coastal Studies; the Director of
449 the Environmental Resilience Institute at the University of Virginia; the Director of Virginia Sea Grant; the
450 Director of Diversity, Equity, and Inclusion; and the Chief Data Officer of the Commonwealth. The Director
451 shall serve as chairman of the Committee and the Chief Resilience Officer of the Commonwealth shall serve
452 as vice-chairman of the Committee.

453 3. The Director shall invite participation by the Commander of the U.S. Army Corps of Engineers,
454 Norfolk District; the Commander of the U.S. Army Corps of Engineers, Baltimore District; the Commander
455 of the Navy Region Mid-Atlantic; and representatives of the ~~seven~~ federally recognized ~~Tribal Nations~~
456 ~~indigenous to the Commonwealth of Virginia tribes.~~

457 4. Appointed members shall serve in an advisory role without compensation.

458 5. The Committee shall meet at least quarterly.

459 6. The Department and the Coastal Zone Management Program shall provide staff support to the
460 Committee.

461 7. The Committee shall ensure that (i) risk evaluations and project prioritization protocols are regularly
462 updated and are informed by the best applicable scientific and technical data; (ii) statewide and regional
463 needs are addressed using the best applicable science and long-term resilience approaches; and (iii) the
464 Virginia Coastal Resilience Master Planning Framework is adhered to in the development and updating of the
465 Virginia Coastal Resilience Master Plan. The Committee shall also review updates to the Virginia Coastal
466 Resilience Master Plan and receive updates about the progress of the Virginia Flood Protection Master Plan
467 at each meeting. Additionally, the Committee may be called upon to assist the Department with the
468 development and updating of the Virginia Flood Protection Master Plan.

469 C. (Effective February 1, 2025)

470 1. The Chief Resilience Officer, in coordination with the Special Assistant to the Governor for Coastal
471 Adaptation and Protection and the Director, shall establish the Virginia Coastal Resilience Technical
472 Advisory Committee (the Committee) to assist with developing, updating, and implementing the Virginia
473 Coastal Resilience Master Plan.

474 2. The Committee shall be comprised of representatives of state agencies, coastal planning district
475 commissions, regional commissions, academic advisors, and any other representatives as needed. Members
476 shall serve at the pleasure of the Governor and shall include the following individuals or their designees: the
477 executive directors of coastal planning district commissions and regional commissions; the Special Assistant
478 to the Governor for Coastal Adaptation and Protection; the Director; the Director of the Virginia Department
479 of Emergency Management; the Director of the Virginia Department of Housing and Community
480 Development; the Executive Director of the Virginia Resources Authority; the Director of the Department of
481 Environmental Quality; the Commissioner of the Virginia Department of Transportation; the Director of the
482 Virginia Transportation Research Council; the Commissioner of the Virginia Marine Resources Commission;
483 the Director of the Institute for Coastal Adaptation and Resilience; the Associate Dean for Research and
484 Advisory Services at the Virginia Institute of Marine Science; the Director of the Virginia Coastal Resilience

485 Collaborative at the College of William and Mary in Virginia; the Director of the Virginia Tech Center for
486 Coastal Studies; the Director of the Environmental Resilience Institute at the University of Virginia; the
487 Director of Virginia Sea Grant; the Director of Diversity, Equity, and Inclusion; and the Chief Data Officer of the
488 Commonwealth. The Chief Resilience Officer shall serve as chairman of the Committee.

489 3. The Chief Resilience Officer shall invite participation by the Commander of the U.S. Army Corps of
490 Engineers, Norfolk District; the Commander of the Navy Region Mid-Atlantic; and representatives of the
491 seven federally recognized Tribal Nations indigenous to the Commonwealth of Virginia tribes.

492 4. Appointed members shall serve in an advisory role without compensation.

493 5. The Committee shall meet at least quarterly.

494 6. The Department, the Special Assistant to the Governor for Coastal Adaptation and Protection, and the
495 Coastal Zone Management Program shall provide staff support to the Committee.

496 7. The Committee shall ensure that (i) risk evaluations and project prioritization protocols are regularly
497 updated and are informed by the best applicable scientific and technical data; (ii) statewide and regional
498 needs are addressed using the best applicable science and long-term resilience approaches; and (iii) the
499 Virginia Coastal Resilience Master Planning Framework is adhered to in the development and updating of the
500 Virginia Coastal Resilience Master Plan. The Committee shall also review updates to the Virginia Coastal
501 Resilience Master Plan and receive updates about the progress of the Virginia Flood Protection Master Plan
502 at each meeting. Additionally, the Committee may be called upon to assist the Department with the
503 development and updating of the Virginia Flood Protection Master Plan.

504 D. (Effective February 1, 2025)

505 1. The Director, in coordination with the Chief Resilience Officer of the Commonwealth, shall establish
506 the Virginia Flood Resilience Advisory Committee (the Committee) to assist with developing, updating, and
507 implementing the Virginia Flood Protection Master Plan pursuant to § 10.1-602 and implementing the
508 Commonwealth's flood resilience, preparedness, prevention, and protection programs.

509 2. The Committee shall be composed of the following individuals representing state agencies, or their
510 designees: the Director, the Chief Resilience Officer of the Commonwealth, the Director of the Department
511 of Emergency Management, the Director of the Department of Housing and Community Development, the
512 Executive Director of the Virginia Resources Authority, the Director of the Department of Environmental
513 Quality, the Commissioner of the Department of Transportation, the Director of the Office of Intermodal
514 Planning and Investment, the Commissioner of Marine Resources, the Director of the Department of General
515 Services, the Virginia Director of the Chesapeake Bay Commission, and the Director of Diversity, Equity,
516 and Inclusion. Committee membership shall also include one representative from each of the following: the
517 Virginia Association of Planning District Commissions, the Virginia Municipal League, and the Virginia
518 Association of Counties. The Director may invite participation by other representatives as deemed
519 appropriate. The Director shall serve as chairman of the Committee. The Chief Resilience Officer of the
520 Commonwealth shall serve as vice-chairman of the Committee.

521 3. Members appointed to the Committee shall serve in an advisory role without compensation.

522 4. The Committee shall meet at least two times per calendar year.

523 5. The Department shall provide staff support to the Committee.

524 6. The Committee shall receive updates to the Virginia Flood Protection Master Plan, the Coastal
525 Resilience Master Plan, and other regional flood resilience plans. The Committee shall advise the Department
526 on (i) assessing the impacts of flooding on people, the economy, and the environment; (ii) establishing and
527 measuring flood resilience goals and metrics for the Commonwealth; (iii) prioritizing state policies,
528 programs, funding, and other strategies to mitigate the impacts of severe and repetitive flooding; (iv)
529 enhancing intergovernmental and interagency coordination for flood resilience planning and strategy
530 implementation; (v) conducting stakeholder outreach and engagement in support of flood resilience planning
531 and implementation; (vi) assisting local governments to minimize loss of life, property damage, and negative
532 impacts on the environment resulting from flooding; and (vii) issues relating to the Virginia Flood Protection
533 Master Plan in accordance with the requirements established in § 10.1-602.

534 7. The Director may establish subcommittees or other bodies to advise on the development and
535 implementation of the Coastal Resilience Master Plan and other regional flood resilience plans.

536 8. The Department shall engage with the following entities in the development of the Virginia Flood
537 Protection Master Plan: the federally recognized Tribal Nations indigenous to the Commonwealth tribes, the
538 flooding-related research programs of institutions of higher education in the Commonwealth, the agricultural
539 community, the economic development community, environmental nonprofit organizations, local
540 governments, planning district commissions, regional commissions, the Commander of the U.S. Army Corps
541 of Engineers for each district that includes a portion of the Commonwealth, the Commander of the U.S. Navy
542 Region Mid-Atlantic, and other federal facilities located within the Commonwealth.

543 E. For the purposes of this section, the term "federally recognized tribe" has the same meaning as that
544 term is defined in § 2.2-6100.

545 **§ 10.1-1003. Permits for excavation and scientific investigation; how obtained; penalties.**

546 A. In addition to the written permission of the owner required by § 10.1-1004, a permit shall be obtained

547 from the Department prior to excavating or removing any archaeological, paleontological, prehistoric, or
 548 historic feature of any cave. Prior to issuing any permit in a locality identified by the Ombudsman for Tribal
 549 Consultation pursuant to subdivision B 2 of § 2.2-401.01, the Department shall consult with any federally
 550 recognized ~~Tribal Nation in the Commonwealth~~ *tribe, as that term is defined in § 2.2-6100*, pursuant to §
 551 10.1-104.02. The Department shall issue a permit to excavate or remove such a feature if it finds, with the
 552 concurrence of the Director of the Department of Historic Resources, that it is in the best interest of the
 553 Commonwealth and that the applicant meets the criteria of this section. The permit shall be issued for a
 554 period of two years and may be renewed upon expiration. Such permit shall not be transferable; however, the
 555 provisions of this section shall not preclude any person from working under the direct supervision of the
 556 permittee.

557 B. All field investigations, explorations, or recovery operations undertaken under this section shall be
 558 carried out under the general supervision of the Department and in a manner to ensure that the maximum
 559 amount of historic, scientific, archaeologic, and educational information may be recovered and preserved in
 560 addition to the physical recovery of objects.

561 C. A person applying for a permit pursuant to this section shall:

562 1. Be a historic, scientific, or educational institution, or a professional or amateur historian, biologist,
 563 archaeologist, or paleontologist, who is qualified and recognized in these areas of field investigations.

564 2. Provide a detailed statement to the Department giving the reasons and objectives for excavation or
 565 removal and the benefits expected to be obtained from the contemplated work.

566 3. Provide data and results of any completed excavation, study, or collection at the first of each calendar
 567 year.

568 4. Obtain the prior written permission of the owner if the site of the proposed excavation is on privately
 569 owned land.

570 5. Carry the permit while exercising the privileges granted.

571 D. Any person who fails to obtain a permit required by subsection A is guilty of a Class 1 misdemeanor.
 572 Any violation of subsection C is punishable as a Class 3 misdemeanor, and the permit shall be revoked.

573 E. The provisions of this section shall not apply to any person in any cave located on his own property.

574 **§ 10.1-1018. Virginia Land Conservation Board of Trustees; membership; terms; vacancies;**
 575 **compensation and expenses.**

576 A. The Foundation shall be governed and administered by a Board of Trustees (the Board). The Board
 577 shall have a total membership of 20 members that shall consist of 18 citizen members and two ex officio
 578 voting members as follows: four citizen members, who may be members of the House of Delegates, to be
 579 appointed by the Speaker of the House of Delegates and, if such members are members of the House of
 580 Delegates, in accordance with the principles of proportional representation contained in the Rules of the
 581 House of Delegates; two citizen members, who may be members of the Senate, to be appointed by the Senate
 582 Committee on Rules; 12 nonlegislative citizen members, one from each of the 11 congressional districts and
 583 one *citizen or* member of a ~~state-recognized or federally recognized Virginia Indian Tribe~~ *Virginia*
 584 *recognized tribe, as that term is defined in § 2.2-6100*, to be appointed by the Governor; and the Secretary of
 585 Natural and Historic Resources, or his designee, and the Secretary of Agriculture and Forestry, or his
 586 designee, to serve ex officio with voting privileges. Nonlegislative citizen members shall be appointed for
 587 four-year terms, except that initial appointments shall be made for terms of one to four years in a manner
 588 whereby no more than six members shall have terms that expire in the same year. Legislative members and
 589 the ex officio member shall serve terms coincident with their terms of office. Appointments to fill vacancies,
 590 other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the
 591 same manner as the original appointments. All members may be reappointed. However, no Senate member
 592 shall serve more than two consecutive four-year terms, no House member shall serve more than four
 593 consecutive two-year terms, and no nonlegislative citizen member shall serve more than two consecutive
 594 four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not
 595 constitute a term in determining the member's eligibility for reappointment. Nonlegislative citizen members
 596 shall have experience or expertise, professional or personal, in one or more of the following areas: natural
 597 resource protection and conservation, construction and real estate development, natural habitat protection,
 598 environmental resource inventory and identification, forestry management, farming, farmland preservation,
 599 fish and wildlife management, historic preservation, and outdoor recreation. At least one of the nonlegislative
 600 citizen members shall be a farmer. Members of the Board shall post bond in the penalty of \$5,000 with the
 601 State Comptroller prior to entering upon the functions of office.

602 B. The Secretary of Natural and Historic Resources shall serve as the chairman of the Board. The
 603 chairman shall serve until his successor is appointed. The members appointed as provided in subsection A
 604 shall elect a vice-chairman annually from among the members of the Board. A majority of the members of
 605 the Board serving at any one time shall constitute a quorum for the transaction of business. The Board shall
 606 meet at the call of the chairman or whenever a majority of the members so request.

607 C. Trustees of the Foundation shall receive no compensation for their services. All members shall be

608 reimbursed for all reasonable and necessary expenses incurred in the performance of their duties on behalf of
609 the Foundation as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members
610 shall be provided by the Department of Conservation and Recreation.

611 D. The chairman of the Board and any other person designated by the Board to handle the funds of the
612 Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned
613 upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the
614 Foundation for such purpose.

615 E. The Board shall seek assistance in developing grant criteria and advice on grant priorities and any other
616 appropriate issues from a task force consisting of the following agency heads or their designees: the Director
617 of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services,
618 the State Forester, the Director of the Department of Historic Resources, the Director of the Department of
619 Wildlife Resources and the Executive Director of the Virginia Outdoors Foundation. The Board may request
620 any other agency head to serve on or appoint a designee to serve on the task force.

621 **§ 10.1-1020. Virginia Land Conservation Fund; purposes of Foundation.**

622 A. The Foundation shall establish, administer, manage, including the creation of reserves, and make
623 expenditures and allocations from a special, nonreverting fund in the state treasury to be known as the
624 Virginia Land Conservation Fund, hereinafter referred to as the Fund. The Foundation shall establish and
625 administer the Fund solely for the purposes of:

626 1. Acquiring fee simple title or other rights, including the purchase of development rights, to interests or
627 privileges in property for the protection or preservation of ecological, cultural or historical resources, lands
628 for recreational purposes, state forest lands, and lands for threatened or endangered species, fish and wildlife
629 habitat, natural areas, agricultural and forestal lands and open space, and for conservation and restoration of
630 homelands for ~~state-recognized and federally recognized Virginia Indian Tribes~~ *Virginia recognized tribes*;
and

631 2. Providing grants to state agencies, including the Virginia Outdoors Foundation, and ~~state-recognized~~
632 ~~and federally recognized Virginia Indian Tribes~~ *Virginia recognized tribes*, and matching grants to other
633 public bodies and holders for acquiring fee simple title or other rights, including the purchase of development
634 rights, to interests or privileges in real property for the protection or preservation of ecological, cultural or
635 historical resources, lands for recreational purposes, and lands for threatened or endangered species, fish and
636 wildlife habitat, natural areas, agricultural and forestal lands and open space. The Board shall establish
637 criteria for making grants from the Fund, including procedures for determining the amount of each grant and
638 the required match. The criteria shall include provisions for grants to localities for purchase of development
639 rights programs.

640 Interests in land acquired as provided in subdivision 1 may be held by the Foundation, state agencies,
641 ~~state-recognized or federally recognized Virginia Indian Tribes~~ *Virginia recognized tribes*, other public
642 bodies, and appropriate holders. Whenever a holder acquires any interest in land other than a fee simple
643 interest as a result of a grant or transfer from the Foundation, such interest shall be held jointly by the holder
644 and a public body. Whenever a holder acquires a fee simple interest in land as a result of a grant or transfer
645 from the Foundation, a public body shall hold an open space easement in such land.

646 B. The Fund shall consist of general fund moneys and gifts, endowments or grants from the United States
647 government, its agencies and instrumentalities, and funds from any other available sources, public or private.
648 Such moneys, gifts, endowments, grants or funds from other sources may be either restricted or unrestricted.
649 For the purposes of this chapter, "restricted funds" shall mean those funds received by the Board to which
650 specific conditions apply; "restricted funds" shall include, but not be limited to, general obligation bond
651 moneys and conditional gifts. "Unrestricted funds" shall mean those received by the Foundation to which no
652 specific conditions apply; "unrestricted funds" shall include, but not be limited to, moneys appropriated to the
653 Fund by the General Assembly to which no specific conditions are attached and unconditional gifts.

654 C. In any fiscal year for which the Fund is appropriated less than \$10 million, and after an allocation for
655 administrative expenses has been made as provided in subsection G, the remaining unrestricted funds in the
656 Fund shall be allocated as follows:

657 1. Twenty-five percent shall be transferred to the Virginia Outdoors Foundation's Open-Space Lands
658 Preservation Trust Fund to be used as provided in § 10.1-1801.1; and

659 2. Seventy-five percent shall be divided equally among the following four grant uses: (i) natural area
660 protection; (ii) open spaces and parks, including but not limited to, land for public hunting, fishing or wildlife
661 watching; (iii) farmlands and forest preservation; and (iv) historic area preservation. Of the amount allocated
662 as provided in this subdivision, at least one third shall be used to secure easements to be held or co-held by a
663 public body.

664 D. In any fiscal year for which the Fund is appropriated \$10 million or more, and after an allocation for
665 administrative expenses has been made as provided in subsection G, the remaining unrestricted funds in the
666 Fund shall be allocated as follows:

667 1. Twenty-five percent shall be transferred to the Virginia Outdoors Foundation's Open-Space Lands

668 Preservation Trust Fund to be used as provided in § 10.1-1801.1; and

669 2. The remaining funds shall be divided equally among the following five grant uses: (i) natural area
670 protection; (ii) open spaces and parks, including but not limited to, land for public hunting, fishing, or
671 wildlife watching; (iii) farmland preservation; (iv) forestland conservation; and (v) historic area preservation.

672 E. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall not
673 revert to the general fund. Interest earned on moneys received by the Fund other than bond proceeds shall
674 remain in the Fund and be credited to it. Any funds transferred to the Open-Space Lands Preservation Trust
675 Fund pursuant to this section and not disbursed or committed to a project by the end of the fiscal year in
676 which the funds were transferred shall be returned to the Virginia Land Conservation Fund and shall be
677 redistributed among the authorized grant uses during the next grant cycle.

678 F. A portion of the Fund, not to exceed 20 percent of the annual balance of unrestricted funds, may be
679 used to develop properties purchased in fee simple, or through the purchase of development rights, with the
680 assets of the Fund for public use including, but not limited to, development of trails, parking areas,
681 infrastructure, and interpretive projects or to conduct environmental assessments or other preliminary
682 evaluations of properties prior to the acquisition of any property interest.

683 G. Up to \$250,000 per year of the interest generated by the Fund may be used for the Foundation's
684 administrative expenses, including, but not limited to, the expenses of the Board and its members,
685 development of the Foundation's strategic plan, development and maintenance of an inventory of properties
686 as provided in subdivision 1 b of § 10.1-1021, development of a needs assessment for future expenditures as
687 provided in subdivision 1 c of § 10.1-1021, and fulfillment of reporting requirements. All such expenditures
688 shall be subject to approval by the Board of Trustees.

689 H. The Comptroller shall maintain the restricted funds and the unrestricted funds in separate accounts.

690 I. For the purposes of this section, "public body" shall have the meaning ascribed to it in § 10.1-1700, and
691 "holder" shall have the meaning ascribed to it in § 10.1-1009. *The term "Virginia recognized tribe" shall have*
692 *the same meaning as that term is defined in § 2.2-6100.*

693 **§ 10.1-1186.3:1. Policies for consultation with federally recognized tribes in the Commonwealth.**

694 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
695 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
696 for meaningful and appropriate written consultation with potentially impacted federally recognized ~~Tribal~~
697 ~~Nations in the Commonwealth~~ *tribes* regarding certain major actions or permits issued by the Department.
698 The Department shall designate an agency official to evaluate the adequacy of consultation and ensure that
699 agency consultation practices are consistent. Actions and permits appropriate for consultation shall include
700 the projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
701 federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* based on tribal preferences, ensure that
702 sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~
703 *tribes* to fully engage in consultation regarding the proposed action, and establish procedures for the
704 Department to provide feedback to the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to
705 explain how their input was considered. Should feedback from the federally recognized ~~Tribal Nations in the~~
706 ~~Commonwealth~~ *tribes* not be received by the deadline established in the Department's policies and
707 procedures, the consultation provisions of this section shall be deemed fulfilled. For environmental impact
708 reports for major state projects prepared pursuant to § 10.1-1188, the policies and procedures shall require the
709 state project proponent to perform the required consultation.

710 B. The following actions and projects in a locality identified by the Ombudsman for Tribal Consultation
711 pursuant to subdivision B 2 of § 2.2-401.01 are subject to consultation as set forth in subsection A: (i)
712 environmental impact reports for major state projects prepared pursuant to § 10.1-1188, (ii) State Corporation
713 Commission project reports prepared pursuant to § 56-46.1 and 20VAC5-302-25, (iii) environmental impact
714 assessments for oil or gas well drilling operations in Tidewater Virginia prepared pursuant to 9VAC15-20,
715 (iv) federal consistency determinations prepared pursuant to § 307 of the federal Coastal Zone Management
716 Act of 1972 (16 U.S.C. § 1451 et seq.), and (v) ground water withdrawal permits for ground water
717 withdrawals greater than 365 million gallons per year issued pursuant to § 62.1-266.

718 *C. For the purposes of this section, the term "federally recognized tribe" has the same meaning as that*
719 *term is defined in § 2.2-6100.*

720 **§ 10.1-1188. State agencies to submit environmental impact reports on major projects.**

721 A. All state agencies, boards, authorities, and commissions or any branch of the state government shall
722 prepare and submit an environmental impact report to the Department on each major state project.

723 For the purposes of this section, "major state project means" the acquisition of an interest in land for any
724 state facility construction, or the construction of any facility or expansion of an existing facility that is
725 hereafter undertaken by any state agency, board, commission, or authority or any branch of state government,
726 including public institutions of higher education, that costs \$500,000 or more. For the purposes of this
727 chapter, authority shall not include any industrial development authority created pursuant to the provisions of
728 Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2 or Chapter 643, as amended, of the Acts of Assembly of 1964.

729 Nor shall it include the Virginia Port Authority created pursuant to the provisions of § 62.1-128, unless such
 730 project is a capital project that costs in excess of \$5 million. Nor shall authority include any housing
 731 development or redevelopment authority established pursuant to state law. For the purposes of this chapter,
 732 branch of state government shall include any county, city, or town of the Commonwealth only in connection
 733 with highway construction, reconstruction, or improvement projects affecting highways or roads undertaken
 734 by the county, city, or town on projects estimated to cost more than \$2 million. For projects undertaken by
 735 any locality costing more than \$500,000 and less than \$2 million, the locality shall consult with the
 736 Department of Historic Resources to consider and make reasonable efforts to avoid or minimize impacts to
 737 historic resources if the project involves a new location or a new disturbance that extends outside the area or
 738 depth of a prior disturbance, or otherwise has the potential to affect such resources adversely.

739 Such environmental impact report shall include, but not be limited to, the following:

- 740 1. The environmental impact of the major state project, including the impact on wildlife habitat;
- 741 2. Any adverse environmental effects that cannot be avoided if the major state project is undertaken;
- 742 3. Measures proposed to minimize the impact of the major state project;
- 743 4. Any alternatives to the proposed construction;
- 744 5. Any irreversible environmental changes that would be involved in the major state project; and

745 6. If required, a record of consultation with any federally recognized ~~Tribal Nation in the Commonwealth~~
 746 *tribe* that may be impacted by the major state project in a locality identified by the Ombudsman for Tribal
 747 Consultation pursuant to subdivision B 2 of § 2.2-401.01 pursuant to § 10.1-1186.3:1. The record of
 748 consultation shall include the information provided to the federally recognized ~~Tribal Nation in the~~
 749 ~~Commonwealth~~ *tribe*, any feedback or response received by the federally recognized ~~Tribal Nation in the~~
 750 ~~Commonwealth~~ *tribe*, and a description of how the impact was considered or incorporated into the major
 751 state project. *For the purposes of this subdivision, the term "federally recognized tribe" has the same*
 752 *meaning as that term is defined in § 2.2-6100.*

753 For the purposes of subdivision 4, the report shall contain all alternatives considered and the reasons why
 754 the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives were not
 755 considered.

756 B. For purposes of this chapter, this subsection shall only apply to the review of highway and road
 757 construction projects or any part thereof. The Secretaries of Transportation and Natural and Historic
 758 Resources shall jointly establish procedures for review and comment by state natural and historic resource
 759 agencies of highway and road construction projects. Such procedures shall provide for review and comment
 760 on appropriate projects and categories of projects to address the environmental impact of the project, any
 761 adverse environmental effects that cannot be avoided if the project is undertaken, the measures proposed to
 762 minimize the impact of the project, any alternatives to the proposed construction, and any irreversible
 763 environmental changes that would be involved in the project.

764 **§ 10.1-2202.5. Virginia Black, Indigenous, and People of Color Historic Preservation Fund;**
 765 **established.**

766 A. As used in this section:

767 "Eligible costs" means acquisition of real property and any improvements thereon; acquisition of a
 768 permanent protective interest in real property such as a perpetual preservation easement; costs associated with
 769 the acquisition of real property or interests thereof, such as appraisals, environmental reports, surveys, title
 770 searches, title insurance, and closing costs; costs of registering property with the Virginia Landmarks
 771 Register and the National Register of Historic Places, including survey and consultation fees and other related
 772 costs; and costs associated with the material rehabilitation or stabilization of real property.

773 "Fund" means the Virginia Black, Indigenous, and People of Color Historic Preservation Fund.

774 "Organization" means a private nonprofit organization.

775 "*Virginia recognized tribe*" has the same meaning as that term is defined in § 2.2-6100.

776 B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
 777 Black, Indigenous, and People of Color Historic Preservation Fund. The Fund shall be established on the
 778 books of the Comptroller. All funds appropriated for such purpose, any funds from the federal government,
 779 and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state
 780 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be
 781 credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year
 782 shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for
 783 the purposes set forth in this section. Expenditures and disbursements from the Fund shall be made by the
 784 State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

785 C. Moneys in the Fund shall be used solely for grants to any eligible ~~state-recognized or federally~~
 786 ~~recognized Indian~~ *Virginia recognized* tribe, private nonprofit organization, or locality for eligible costs
 787 related to the purchase of a fee simple or protective interest in real property; rehabilitation or stabilization of
 788 real property; or data recovery of any cultural or historical property associated with Black, indigenous, or
 789 people of color communities and listed in the Virginia Landmarks Register, the National Register of Historic

790 Places, designated as a National Historic Landmark, or determined eligible for such listing. Matching funds
791 may be required for grants from the Fund.

792 D. Grants awarded from the Fund for the acquisition of real property by fee simple purchase or by
793 purchase of protective interests shall not exceed 50 percent of the appraised value of the land or permanent
794 protective interest.

795 E. Grants from the Fund may be awarded for a prospective purchase or for acquisitions upon which the
796 applicant has already completed the transaction. If the transaction has been completed at the time of the
797 application for the grant, the applicant shall demonstrate that (i) the transaction was completed no more than
798 12 months prior to the date of the application for the grant and (ii) an identifiable threat to the resource or
799 compelling need for preservation existed at the time of the purchase.

800 F. Any ~~state-recognized or federally recognized Indian~~ *Virginia recognized* tribe, organization, or locality
801 receiving a grant from the Fund shall grant the Board or other holder a perpetual easement pursuant to the
802 Open-Space Land Act (§ 10.1-1700 et seq.) for the purpose of preserving real property that is important for
803 its historical, architectural, or archaeological aspects, replacing restrictions on the use or development of the
804 land. If the easement is granted to a holder other than the Board, all terms and conditions of the easement
805 shall be reviewed by the Department to ensure that the easement accomplishes the perpetual preservation of
806 the property. Such other holder shall demonstrate to the Department that it has the capacity and expertise to
807 manage and enforce the terms of the easement.

808 G. The Director shall administer and manage the Fund and shall establish guidelines for applications,
809 evaluations, and recommendations to the Board for the award of grants from the Fund. In awarding grants,
810 the Board shall give primary consideration to the significance of the real property and the threat to and
811 integrity of features associated with such property. The Board shall also consider the applicant's financial
812 need, the ability of an applicant to provide matching funds, and the financial and administrative capacity of
813 the applicant to complete the project and maintain and manage the property in a manner that is consistent
814 with public investment and public interest, such as education, recreation, research, heritage tourism
815 promotion, or orderly community development. The Director shall make grant award recommendations to the
816 Board for approval by the Board. The Director shall incorporate the Conserve Virginia program, established
817 pursuant to § 10.1-104.6:1, into grant award recommendations to the Board, when appropriate.

818 **§ 10.1-2205.1. Policies for consultation with federally recognized tribes in the Commonwealth.**

819 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
820 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
821 for meaningful and appropriate written consultation with federally recognized ~~Tribal Nations in the~~
822 ~~Commonwealth~~ *tribes* regarding certain major actions or permits issued by the Department. The Department
823 shall designate an agency official to evaluate the adequacy of consultation and ensure that agency
824 consultation practices are consistent. Actions and permits appropriate for consultation shall include the
825 projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
826 federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* based on tribal preferences, ensure that
827 sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~
828 *tribes* to fully engage in consultation regarding developing informed opinions about the proposed action, and
829 establish procedures for the Department to provide feedback to the federally recognized ~~Tribal Nations in the~~
830 ~~Commonwealth~~ *tribes* to explain how their input was considered. Should feedback from the federally
831 recognized ~~Tribal Nations in the Commonwealth~~ *tribes* not be received by the deadline established in the
832 Department's policies and procedures, the consultation provisions of this section shall be deemed fulfilled.

833 B. The following actions and projects are subject to consultation as set forth in subsection A: (i) the
834 designation of historic districts, buildings, structures, or sites as historic landmarks pursuant to § 10.1-2206.1;
835 (ii) permits to conduct field investigations pursuant to § 10.1-2302; and (iii) burial permits for relocation of
836 human remains issued pursuant to § 10.1-2305.

837 C. *For the purposes of this section, the term "federally recognized tribe" has the same meaning as that*
838 *term is defined in § 2.2-6100.*

839 **§ 10.1-2206.1. Procedure for designating a historic district, building, structure, or site as a historic**
840 **landmark; National Register of Historic Places, National Historic Landmarks; historic district defined.**

841 A. In any county, city, or town where the Board proposes to designate a historic district, building,
842 structure, object, or site as a historic landmark, or where the Director proposes to nominate property to the
843 National Park Service for inclusion in the National Register of Historic Places or for designation as a
844 National Historic Landmark, the Department shall give written notice of the proposal to the governing body
845 and to the owner, owners, or the owner's agent, of property proposed to be so designated or nominated, and to
846 the owners, or their agents, of all abutting property and property immediately across the street or road from
847 the property. The Department shall also consult with any federally recognized ~~Tribal Nations in the~~
848 ~~Commonwealth~~ *tribe, as that term is defined in § 2.2-6100*, pursuant to § 10.1-2205.1 if the designation or
849 nomination is in a locality identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2
850 of § 2.2-401.01.

851 B. Prior to the designation or nomination of a historic district, the Department shall hold a public hearing

852 at the seat of government of the county, city, or town in which the proposed historic district is located or
 853 within the proposed historic district. The public hearing shall be for the purpose of supplying additional
 854 information to the Board and to the Director. The time and place of such hearing shall be determined in
 855 consultation with a duly authorized representative of the local governing body and shall be scheduled at a
 856 time and place that will reasonably allow for the attendance of the affected property owners. The Department
 857 shall publish notice of the public hearing once a week for two successive weeks in a newspaper published or
 858 having general circulation in the county, city, or town. Such notice shall specify the time and place of the
 859 public hearing at which persons affected may appear and present their views, not less than six days nor more
 860 than 21 days after the second publication of the notice in such newspaper. In addition to publishing the
 861 notice, the Department shall give written notice of the public hearing at least five days before such hearing to
 862 the owner, owners, or the owner's agent, of each parcel of real property to be included in the proposed
 863 historic district, and to the owners, or their agents, of all abutting property and property immediately across
 864 the street or road from the included property. Notice required to be given to owners by this subsection may be
 865 given concurrently with the notice required to be given to the owners by subsection A. The Department shall
 866 make and maintain an appropriate record of all public hearings held pursuant to this section.

867 C. Any written notice required to be given by the Department to any person shall be deemed to comply
 868 with the requirements of this section if sent by first class mail to the last known address of such person as
 869 shown on the current real estate tax assessment books, provided that a representative of the Department shall
 870 make an affidavit that such mailings have been made.

871 D. The local governing body and property owners shall have 30 days from the date of the notice required
 872 by subsection A, or, in the case of a historic district, 30 days from the date of the public hearing required by
 873 subsection B to provide comments and recommendations, if any, to the Board and to the Director.

874 E. For the purposes of this chapter, a historic district means a geographically definable area that contains a
 875 significant concentration of historic buildings, structures, or sites having a common historical, architectural,
 876 archaeological, or cultural heritage, and which may contain local tax parcels having separate owners.
 877 Contributing properties within a registered district are historic landmarks by definition.

878 F. All regulations promulgated by the Director pursuant to § 10.1-2202 and all regulations promulgated by
 879 the Board pursuant to § 10.1-2205 shall be consistent with the provisions of this section.

880 **§ 10.1-2214. Underwater historic property; penalty.**

881 A. For purposes of this section, "underwater historic property" means any submerged shipwreck, vessel,
 882 cargo, tackle, or underwater archaeological specimen, including any object found at underwater refuse sites
 883 or submerged sites of former habitation, that has remained unclaimed on the state-owned subaqueous bottom
 884 and has historic value as determined by the Department.

885 B. Underwater historic property shall be preserved and protected and shall be the exclusive property of the
 886 Commonwealth. Preservation and protection of such property shall be the responsibility of all state agencies,
 887 including but not limited to the Department, the Virginia Institute of Marine Science, and the Virginia Marine
 888 Resources Commission. Insofar as may be practicable, such property shall be preserved, protected, and
 889 displayed for the public benefit within the county or city within which it is found or within a museum
 890 operated by a state agency.

891 C. It is unlawful for any person, firm, or corporation to conduct any type of recovery operations involving
 892 the removal, destruction, or disturbance of any underwater historic property without first applying for and
 893 receiving a permit from the Virginia Marine Resources Commission to conduct such operations pursuant to §
 894 28.2-1203. If the Virginia Marine Resources Commission, after consultation with any federally recognized
 895 ~~Tribal Nations in the Commonwealth~~ *tribe, as that term is defined in § 2.2-6100*, pursuant to § 28.2-104.01,
 896 and with the concurrence of the Department and in consultation with the Virginia Institute of Marine Science
 897 and other concerned state agencies, finds that granting the permit is in the best interest of the Commonwealth,
 898 it shall grant the applicant a permit. The permit shall provide that all objects recovered shall be the exclusive
 899 property of the Commonwealth. The permit shall provide the applicant with a fair share of the objects
 900 recovered, or in the discretion of the Department, a reasonable percentage of the cash value of the objects
 901 recovered to be paid by the Department. Title to all objects recovered shall be retained by the Commonwealth
 902 unless or until they are released to the applicant by the Department. All recovery operations undertaken
 903 pursuant to a permit issued under this section shall be carried out under the general supervision of the
 904 Department and in accordance with § 28.2-1203 and in such a manner that the maximum amount of
 905 historical, scientific, archaeological, and educational information may be recovered and preserved in addition
 906 to the physical recovery of items. The Virginia Marine Resources Commission shall not grant a permit to
 907 conduct operations at substantially the same location described and covered by a permit previously granted if
 908 recovery operations are being actively pursued, unless the holder of the previously granted permit concurs in
 909 the grant of another permit.

910 D. The Department may seek a permit pursuant to this section and § 28.2-1203 to preserve and protect or
 911 recover any underwater historic property.

912 E. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor and, in addition,

913 shall forfeit to the Commonwealth any objects recovered.

914 **§ 10.1-2305. Permit required for the archaeological excavation of human remains.**

915 A. It is unlawful for any person to conduct any type of archaeological field investigation involving the
916 removal of human skeletal remains or associated artifacts from any unmarked human burial regardless of age
917 of an archaeological site and regardless of ownership without first receiving a permit from the Director.

918 B. Where unmarked burials are not part of a legally chartered cemetery, archaeological excavation of such
919 burials pursuant to a permit from the Director shall be exempt from the requirements of §§ 57-38.1 and 57-39
920 . However, such exemption shall not apply in the case of human burials within formally chartered cemeteries
921 that have been abandoned.

922 C. The Department shall be considered an interested party in court proceedings considering the
923 abandonment of legally constituted cemeteries or family graveyards with historic significance. A permit from
924 the Director is required if archaeological investigations are undertaken as a part of a court-approved removal
925 of a cemetery.

926 D. The Board shall promulgate regulations implementing this section that provide for appropriate public
927 notice prior to issuance of a permit, provide for appropriate treatment of excavated remains, the scientific
928 quality of the research conducted on the remains, and the appropriate disposition of the remains upon
929 completion of the research. Such regulations shall also require consultation with any federally recognized
930 ~~Tribal Nations in the Commonwealth~~ *tribe* pursuant to § 10.1-2205.1. When a burial permit would result in
931 the disturbance of a burial site of an individual that has a cultural affiliation with a particular federally
932 recognized ~~Tribal Nation in the Commonwealth~~ *tribe*, the Department shall consult and seek consensus with
933 such federally recognized ~~Tribal Nation in the Commonwealth~~ *tribe* in the consideration and drafting of the
934 permit document. The Department may carry out such excavations and research without a permit, provided
935 that it has complied with the substantive requirements of the regulations promulgated pursuant to this section.

936 E. Any interested party may appeal the Director's decision to issue a permit or to act directly to excavate
937 human remains to the local circuit court. Such appeal must be filed within 14 days of the Director's decision.

938 F. For the purposes of this section, "cultural affiliation" has the same definition as provided in 25 U.S.C. §
939 3001(2) of the federal Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001 et seq.)
940 and its regulations. If doubt exists as to cultural affiliation, the federally recognized ~~Tribal Nations in the~~
941 ~~Commonwealth~~ *tribe* with potential cultural affiliation shall make the determination.

942 G. *For the purposes of this section, the term "federally recognized tribe" has the same meaning as that*
943 *term is defined in § 2.2-6100.*

944 **§ 15.2-4202. Definitions.**

945 For the purposes of this chapter:

946 "Commission" means a planning district commission. Planning district commissions are composed of the
947 duly appointed representatives of the localities or ~~Indian~~ *federally recognized* tribes which are parties to the
948 charter agreement.

949 "~~Indian~~ *Federally recognized* tribe" ~~means an Indian tribe or band that is recognized by federal law~~ *has*
950 *the same meaning as that term is defined in § 2.2-6100.*

951 "Planning district" means a contiguous area within the boundaries established by the Department of
952 Housing and Community Development.

953 "Population," unless a different census is clearly set forth, means the number of inhabitants according to
954 the United States census latest preceding the time at which any provision dependent upon population is being
955 applied, or the time as of which it is being construed, unless there is available an annual estimate of
956 population prepared by the Weldon Cooper Center for Public Service of the University of Virginia, which has
957 been filed with the Department of Housing and Community Development, in which event the estimate shall
958 govern.

959 **§ 15.2-4203. Organization of planning district commission.**

960 A. At any time after the establishment of the geographic boundaries of a planning district, the localities or
961 ~~Indian~~ *federally recognized* tribes embracing at least 45 percent of the population within the district acting by
962 their governing bodies may organize a planning district commission by written agreement. Any locality not a
963 party to such charter agreement shall continue as a part of the planning district, but, until such time as such
964 locality elects to become a part of the planning district commission as hereinafter provided, shall not be
965 represented in the composition of the membership of the planning district commission. Any ~~Indian~~ *federally*
966 *recognized* tribe (i) whose land is located within the boundaries of the planning district and (ii) that is not a
967 party to such charter agreement may elect to become part of the planning district commission at any time
968 after its formation, and may negotiate the terms of such membership with the planning district commission.
969 Whenever a planning district is created which contains only two counties, the governing body of either
970 county may organize a planning district commission in accordance with the provisions of this chapter if the
971 governing body of the other county does not agree to organize such a planning district commission.

972 B. The charter agreement shall set forth:

973 1. The name of the planning district. An entity organized as a planning district commission under this act

974 may employ the name "regional council" or "regional commission" as a substitute for the name "planning
975 district commission."

976 2. The locality in which its principal office shall be situated.

977 3. The effective date of the organization of the planning district commission.

978 4. The composition of the membership of the planning district commission. At least a majority of its
979 members shall be elected officials of the governing bodies of the localities within the district, or members of
980 the General Assembly, with each county, city and town of more than 3,500 population having at least one
981 representative. In any planning district other than planning district number 23, a town of 3,500 or less
982 population may petition the planning district commission to be represented thereon. The planning district
983 commission may, in its discretion, grant representation to such town by a majority vote of the members of the
984 commission. Other members shall be qualified voters and residents of the district. In planning districts
985 number 4 and 14, the membership may also include representatives of higher education institutions. Should
986 the charter agreement, as adopted, so provide, an alternate may serve in lieu of one of the elected officials of
987 each of the governing bodies of the participating localities.

988 5. The term of office of the members, their method of selection or removal and the method for the
989 selection and the term of office of a chairman.

990 6. The voting rights of members. Such voting rights need not be equal and may be weighed on the basis of
991 the population of the locality represented by the member, the aggregation of the voting rights of members
992 representing one locality, or otherwise.

993 7. The procedure for amendment, for addition of other localities within the planning district which are not
994 parties to the original charter agreement, and the withdrawal from the charter agreement by localities within
995 the planning district electing to do so.

996 C. The governing body of any locality which is a member of the planning district commission may
997 provide for compensation to be paid by it for its commission members, except for any full-time salaried
998 employees of the locality. The amount of such compensation shall not exceed the amount fixed by the
999 planning district commission.

1000 **§ 20-88.32. Definitions.**

1001 In this chapter:

1002 "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a
1003 duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order
1004 directed to the parent.

1005 "Child support order" means a support order for a child, including a child who has attained the age of
1006 majority under the law of the issuing state or foreign country.

1007 "Convention" means the Convention on the International Recovery of Child Support and Other Forms of
1008 Family Maintenance, concluded at The Hague on November 23, 2007.

1009 "Duty of support" means an obligation imposed or imposable by law to provide support for a child,
1010 spouse, or former spouse, including an unsatisfied obligation to provide support.

1011 "Employer" means the source of any income as defined in § 63.2-1900.

1012 "Foreign country" means a country, including a political subdivision thereof, other than the United States,
1013 that authorizes the issuance of support orders and:

1014 1. That has been declared under the law of the United States to be a foreign reciprocating country;

1015 2. That has established a reciprocal arrangement for child support with the Commonwealth as provided in
1016 § 20-88.50;

1017 3. That has enacted a law or established procedures for the issuance and enforcement of support orders
1018 which are substantially similar to the procedures under this chapter; or

1019 4. In which the Convention is in force with respect to the United States.

1020 "Foreign support order" means a support order of a foreign tribunal.

1021 "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country
1022 which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The
1023 term includes a competent authority under the Convention.

1024 "Home state" means the state or foreign country in which a child lived with a parent or a person acting as
1025 parent for at least six consecutive months immediately preceding the time of filing of a petition or
1026 comparable pleading for support and, if a child is less than six months old, the state or foreign country in
1027 which the child lived from birth with any of them. A period of temporary absence of any of them is counted
1028 as part of the six-month or other period.

1029 "Income" includes earnings or other periodic entitlements to money from any source and any other
1030 property subject to withholding for support under the law of the Commonwealth.

1031 "Income-withholding order" means an order or other legal process directed to an obligor's employer or
1032 other debtor, to withhold support from the obligor's income as defined in § 63.2-1900.

1033 "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable
1034 pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or

1035 foreign country.

1036 "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a
1037 judgment determining parentage of a child.

1038 "Issuing state" means the state in which a tribunal issues a support order or a judgment determining
1039 parentage of a child.

1040 "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment
1041 determining parentage of a child.

1042 "Law" includes decisional and statutory law and rules and regulations having the force of law.

1043 "Obligee" means (i) an individual to whom a duty of support is or is alleged to be owed or in whose favor
1044 a support order or a judgment determining parentage of a child has been issued, (ii) a foreign country, state,
1045 or political subdivision of a state to which the rights under a duty of support or support order have been
1046 assigned or which has independent claims based on financial assistance provided to an individual obligee in
1047 place of child support, (iii) an individual seeking a judgment determining parentage of the individual's child,
1048 or (iv) a person that is a creditor in a proceeding under Article 13 (§ 20-88.83 et seq.).

1049 "Obligor" means an individual, or the estate of a decedent that (i) owes or is alleged to owe a duty of
1050 support, (ii) is alleged but has not been adjudicated to be a parent of a child, (iii) is liable under a support
1051 order, or (iv) is a debtor in a proceeding under Article 13 (§ 20-88.83 et seq.).

1052 "Outside the Commonwealth" means a location in another state, political subdivision of a state, or a
1053 country other than the United States, whether or not the country is a foreign country.

1054 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
1055 company, association, joint venture, public corporation, government or governmental subdivision, agency, or
1056 instrumentality, or any other legal or commercial entity.

1057 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
1058 other medium and is retrievable in perceivable form.

1059 "Register" means to file in a tribunal of the Commonwealth a support order or judgment determining
1060 parentage of a child issued in another state or a foreign country.

1061 "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a
1062 child is registered.

1063 "Responding state" means a state or a foreign country in which a petition or comparable pleading for
1064 support or to determine parentage of a child is filed or to which a petition or comparable pleading is
1065 forwarded for filing from another state or a foreign country.

1066 "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

1067 "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

1068 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
1069 Islands or any territory or insular possession under the jurisdiction of the United States. The term includes ~~an~~
1070 *a federally recognized American Indian nation or tribe.*

1071 "Support enforcement agency" means a public official, governmental entity, or private agency authorized
1072 to (i) seek enforcement of support orders or laws relating to the duty of support, (ii) seek establishment or
1073 modification of child support, (iii) request determination of parentage of a child, (iv) attempt to locate
1074 obligors or their assets, or (v) request determination of the controlling child support order. A support
1075 enforcement agency of the Commonwealth is not authorized to establish or enforce a support order for
1076 spousal support only.

1077 "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or
1078 subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former
1079 spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement
1080 for financial assistance provided to an individual obligee in place of child support. The term may include
1081 related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and
1082 other relief.

1083 "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce,
1084 or modify support orders or to determine parentage of a child; however, the support enforcement agency of
1085 the Commonwealth has no authority to establish or enforce a support order for spousal support only.

1086 **§ 20-146.1. Definitions.**

1087 In this act:

1088 "Child" means an individual who has not attained eighteen years of age.

1089 "Child custody determination" means a judgment, decree, or other order of a court providing for the legal
1090 custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary,
1091 initial, or modification order. The term does not include an order relating to child support or other monetary
1092 obligation of an individual.

1093 "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation
1094 with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse,
1095 dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in

1096 which the issue may appear. The term does not include a proceeding involving juvenile delinquency,
 1097 contractual emancipation, or enforcement under Article 3 (§ 20-146.22 et seq.) of this chapter.

1098 "Commencement" means the filing of the first pleading in a proceeding.

1099 "Court" means a court of competent jurisdiction as determined by otherwise applicable Virginia law to
 1100 establish, enforce, or modify a child custody determination or an entity authorized under the law of another
 1101 state to establish, enforce or modify a child custody determination.

1102 "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least
 1103 six consecutive months immediately before the commencement of a child custody proceeding. In the case of
 1104 a child less than six months of age, the term means the state in which the child lived from birth with any of
 1105 the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

1106 "Initial determination" means the first child custody determination concerning a particular child.

1107 "Issuing court" means the court that makes a child custody determination for which enforcement is sought
 1108 under this act.

1109 "Issuing state" means the state in which a child custody determination is made.

1110 "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise
 1111 made after a previous determination concerning the same child, whether or not it is made by the court that
 1112 made the previous determination.

1113 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
 1114 company, association, joint venture, government, governmental subdivision, agency, or instrumentality,
 1115 public corporation, or any other legal or commercial entity.

1116 "Person acting as a parent" means a person, other than a parent, who has (i) physical custody of the child
 1117 or has had physical custody for a period of six consecutive months, including any temporary absence, within
 1118 one year immediately before the commencement of a child custody proceeding and (ii) been awarded legal
 1119 custody by a court or claims a right to legal custody under the laws of this Commonwealth.

1120 "Physical custody" means the physical care and supervision of a child.

1121 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
 1122 Islands, or any territory or insular possession subject to the jurisdiction of the United States.

1123 "Tribe" means an *American* Indian tribe or band, or Alaskan Native village, which is recognized by
 1124 federal law or formally acknowledged by a state.

1125 **§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program**
 1126 **attendance; exemptions from article.**

1127 A. As used in this subsection, "attend" includes participation in educational programs and courses at a site
 1128 remote from the school with the permission of the school and in conformity with applicable requirements.

1129 Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth
 1130 having control or charge of any child who will have reached the fifth birthday on or before September 30 of
 1131 any school year and who has not passed the eighteenth birthday shall, during the period of each year the
 1132 public schools are in session and for the same number of days and hours per day as the public schools, cause
 1133 such child to attend a public school or a private, denominational, or parochial school or have such child
 1134 taught by a tutor or teacher of qualifications prescribed by the Board and approved by the division
 1135 superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

1136 As prescribed in the regulations of the Board, the requirements of this section may also be satisfied by
 1137 causing a child to attend an alternative program of study or work/study offered by a public, private,
 1138 denominational, or parochial school or by a public or private degree-granting institution of higher education.
 1139 Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the
 1140 requirements of this section may be alternatively satisfied by causing the child to attend any public
 1141 educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or
 1142 parochial educational pre-kindergarten program.

1143 Instruction in the home of a child or children by the parent, guardian, or other person having control or
 1144 charge of such child or children shall not be classified or defined as a private, denominational or parochial
 1145 school.

1146 The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile
 1147 Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom
 1148 the division superintendent has required to take a special program of prevention, intervention, or remediation
 1149 as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall
 1150 not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when
 1151 such person is actively pursuing the achievement of a passing score on a high school equivalency
 1152 examination approved by the Board but is not enrolled in an individual student alternative education plan
 1153 pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a
 1154 certificate of completion, or has achieved a passing score on a high school equivalency examination approved
 1155 by the Board, or who has otherwise complied with compulsory school attendance requirements as set forth in
 1156 this article.

1157 B. A school board shall excuse from attendance at school:

1158 1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is
 1159 conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious
 1160 training or belief" does not include essentially political, sociological or philosophical views or a merely
 1161 personal moral code; and

1162 2. On the recommendation of the juvenile and domestic relations district court of the county or city in
 1163 which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together
 1164 with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified
 1165 by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety
 1166 when such concern or apprehension in that pupil's specific case is determined by the court, upon
 1167 consideration of the recommendation of the principal and division superintendent, to be justified.

1168 C. Each local school board shall develop policies for excusing students who are absent by reason of
 1169 observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award
 1170 or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or
 1171 examination, for any which he missed by reason of such absence, if the absence is verified in a manner
 1172 acceptable to the school board.

1173 D. A school board may excuse from attendance at school:

1174 1. On recommendation of the principal and the division superintendent and with the written consent of the
 1175 parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board,
 1176 cannot benefit from education at such school; or

1177 2. On recommendation of the juvenile and domestic relations district court of the county or city in which
 1178 the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

1179 E. Local school boards may allow the requirements of subsection A to be met under the following
 1180 conditions:

1181 For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents,
 1182 and the principal or his designee of the school in which the student is enrolled in which an individual student
 1183 alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which
 1184 plan must include:

1185 1. Career guidance counseling;

1186 2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency
 1187 examination approved by the Board or other alternative education program approved by the local school
 1188 board with attendance requirements that provide for reporting of student attendance by the chief administrator
 1189 of such preparatory program or approved alternative education program to such principal or his designee;

1190 3. Mandatory enrollment in a program to earn a Board-approved career and technical education credential,
 1191 such as the successful completion of an industry certification, a state licensure examination, a national
 1192 occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia
 1193 workplace readiness skills assessment;

1194 4. Successful completion of the course in economics and personal finance required to earn a Board-
 1195 approved high school diploma;

1196 5. Counseling on the economic impact of failing to complete high school; and

1197 6. Procedures for reenrollment to comply with the requirements of subsection A.

1198 A student for whom an individual student alternative education plan has been granted pursuant to this
 1199 subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory
 1200 school attendance law, and the division superintendent or attendance officer of the school division in which
 1201 such student was last enrolled shall seek immediate compliance with the compulsory school attendance law
 1202 as set forth in this article.

1203 Students enrolled with an individual student alternative education plan shall be counted in the average
 1204 daily membership of the school division.

1205 F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of
 1206 Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the
 1207 Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or
 1208 intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have
 1209 resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school
 1210 division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled
 1211 from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection C of § 22.1-277, require the
 1212 child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

1213 G. Whenever a court orders any pupil into an alternative education program, including a program
 1214 preparing students for a high school equivalency examination approved by the Board, offered in the public
 1215 schools, the local school board of the school division in which the program is offered shall determine the
 1216 appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public
 1217 schools it supervises or resides within its school division.

1218 The juvenile and domestic relations district court of the county or city in which a pupil resides or in which

1219 charges are pending against a pupil, or any court in which charges are pending against a pupil, may require
 1220 the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii)
 1221 a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession
 1222 or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program,
 1223 including, but not limited to, night school, adult education, or any other education program designed to offer
 1224 instruction to students for whom the regular program of instruction may be inappropriate.

1225 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude
 1226 students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2. As used in
 1227 this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a
 1228 pupil.

1229 H. Within one calendar month of the opening of school, each school board shall send to the parents or
 1230 guardian of each student enrolled in the division a copy of the compulsory school attendance law and the
 1231 enforcement procedures and policies established by the school board.

1232 I. The provisions of this article shall not apply to:

- 1233 1. Children suffering from contagious or infectious diseases while suffering from such diseases;
- 1234 2. Children whose immunizations against communicable diseases have not been completed as provided in
 1235 § 22.1-271.2;
- 1236 3. Children under 10 years of age who live more than two miles from a public school unless public
 1237 transportation is provided within one mile of the place where such children live;
- 1238 4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school
 1239 unless public transportation is provided within 1.5 miles of the place where such children live; and
- 1240 5. Children excused pursuant to subsections B and D.

1241 Further, any child who will not have reached his sixth birthday on or before September 30 of each school
 1242 year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend
 1243 school until the following year because the child, in the opinion of the parent or guardian, is not mentally,
 1244 physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

1245 The distances specified in subdivisions 3 and 4 shall be measured or determined from the child's residence
 1246 to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such
 1247 children by the nearest practical routes which are usable for walking or riding. Disease shall be established by
 1248 the certificate of a reputable practicing physician in accordance with regulations adopted by the Board.

1249 J. Subject to guidelines established by the Department, any student who is absent from school due to his
 1250 mental or behavioral health shall be granted an excused absence.

1251 K. Subject to guidelines established by the Department, each school board (i) shall permit one school day-
 1252 long excused absence per school year for any middle school or high school student in the local school
 1253 division who is absent from school to engage in a civic event and (ii) may permit additional excused absences
 1254 for such students who are absent for such purpose. Local school boards may require that the student provide
 1255 advance notice of the intended absence and require that the student provide documentation of participation in
 1256 a civic event.

1257 L. Subject to guidelines established by the Department, any student who is a member of a ~~state-recognized~~
 1258 ~~or federally recognized tribal nation that is headquartered in the Commonwealth~~ *Virginia recognized tribe, as*
 1259 *that term is defined in § 2.2-6100*, and who is absent from school to attend such tribal nation's pow wow
 1260 gathering shall be granted one excused absence per academic year, provided that the parent of such student
 1261 provides to the student's school advance notice of such absence in the manner required by the school.

1262 **§ 24.2-128. Minority language accessibility.**

1263 A. The State Board shall designate a county, city, or town as a covered locality if it determines, in
 1264 consultation with the Director of the Census, on the basis of the 2010 American Community Survey census
 1265 data and subsequent American Community Survey data in five-year increments, or comparable census data,
 1266 that (i) more than five percent of the citizens of voting age of such county, city, or town are members of a
 1267 single language minority and are unable to speak or understand English adequately enough to participate in
 1268 the electoral process; (ii) more than 10,000 of the citizens of voting age of such county, city, or town are
 1269 members of a single language minority and are unable to speak or understand English adequately enough to
 1270 participate in the electoral process; or (iii) in the case of a county, city, or town containing all or any part of
 1271 an *American* Indian reservation, more than five percent of the American Indian citizens of voting age within
 1272 the *American* Indian reservation are members of a single language minority and are unable to speak or
 1273 understand English adequately enough to participate in the electoral process.

1274 B. Whenever a covered locality provides any voting or election materials, it shall provide such materials
 1275 in the language of the applicable minority group as well as in the English language. For purposes of this
 1276 requirement, "voting or election materials" means registration or voting notices, forms, instructions,
 1277 assistance, voter information pamphlets, ballots, sample ballots, candidate qualification information, and
 1278 notices regarding changes to local election districts, precincts, or polling places. For purposes of this
 1279 requirement, "registration notices" means any notice of voter registration approval, denial, or cancellation

1280 required by the provisions of Chapter 4 (§ 24.2-400 et seq.). A covered locality may distribute such materials
 1281 in the preferred language identified by the voter.

1282 C. The Attorney General, or any qualified voter who is a member of a language minority group for whom
 1283 a covered locality is required to provide voting or election materials in such language, may institute a cause
 1284 of action in the circuit court of the covered locality to compel the provision of the voting or election materials
 1285 in the language of the applicable minority group. In such action, the court may, in its discretion, allow a
 1286 private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

1287 **§ 28.2-104.01. Policies for consultation with federally recognized tribes in the Commonwealth.**

1288 A. *For the purposes of this section, the term "federally recognized tribe" has the same meaning as that*
 1289 *term is defined in § 2.2-6100.*

1290 B. The Commission, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
 1291 § 2.2-401.01, shall develop policies and procedures to ensure an opportunity for meaningful and appropriate
 1292 written consultation with federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* regarding certain
 1293 major actions or permits issued by the Commission. The Commission shall designate an agency official to
 1294 evaluate the adequacy of consultation and ensure that agency consultation practices are consistent. Actions
 1295 and permits appropriate for consultation shall include underwater recovery permits issued pursuant to §
 1296 10.1-2214 in a locality identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2 of §
 1297 2.2-401.01. The policies shall define an appropriate means of notifying federally recognized ~~Tribal Nations in~~
 1298 ~~the Commonwealth~~ *tribes* based on tribal preferences, ensure that sufficient information and time is provided
 1299 for the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to fully engage in consultation
 1300 regarding the proposed action, and establish procedures for the Commission to provide feedback to the
 1301 federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to explain how their input was considered.
 1302 Should feedback from the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* not be received
 1303 by the deadline established in the Commission's policies and procedures, the consultation provisions of this
 1304 section shall be deemed fulfilled.

1305 **§ 28.2-302.5. Exemptions to saltwater recreational fishing license.**

1306 A. The following persons shall be exempt from the requirements of obtaining a saltwater recreational
 1307 fishing license as set forth in § 28.2-302.1:

1308 1. A person under the age of 16 or a person who has attained the age of 65.

1309 2. A person fishing from private real property that he owns or rents, the nonpaying guest of such person,
 1310 or a member of the immediate family of such person.

1311 3. A person fishing from a licensed recreational boat licensed pursuant to § 28.2-302.7.

1312 4. A person fishing from a licensed headboat, charterboat, or pier licensed pursuant to § 28.2-302 or
 1313 28.2-302.8.

1314 5. A person fishing with gear licensed by the Commission.

1315 6. The holder of a valid recreational fishing license issued by another state or jurisdiction, upon
 1316 determination of reciprocity of the license by the Commissioner.

1317 7. Members of the following groups, as determined by the Commissioner:

1318 a. Organized groups of individuals with physical or mental limitations;

1319 b. Organized groups of military veterans residing in veterans' hospitals; and

1320 c. School groups, grades kindergarten through 12, participating in school-sponsored trips.

1321 8. A permanently and totally disabled person as defined in § 58.1-3217 holding a special lifetime saltwater
 1322 recreational fishing license issued pursuant to § 28.2-302.10.

1323 9. A person holding a lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10:1.

1324 10. A person fishing from a federally owned park or reserve with boundaries extending into an adjoining
 1325 state that does not require a saltwater fishing license.

1326 11. A Virginia resident who is a member of ~~an American Indian tribe recognized by the Commonwealth a~~
 1327 ~~Virginia recognized tribe, as that term is defined in § 2.2-6100,~~ and is carrying (i) an identification card or
 1328 paper signed by the chief of his tribe, (ii) a valid tribal identification card, (iii) a written confirmation through
 1329 a central tribal registry, or (iv) a certification from a tribal office, stating that the person is a member of such
 1330 tribe. Such card or other certification shall create a presumption of residence in Virginia that may be rebutted
 1331 by proof of actual residence elsewhere.

1332 B. No saltwater recreational fishing licenses shall be required on days that are designated as free fishing
 1333 days. The Commissioner shall designate no more than three free fishing days in any calendar year. This
 1334 exemption shall not apply to headboats, charterboats, or rental boats.

1335 **§ 29.1-301. Exemptions from license requirements.**

1336 A. No license shall be required of landowners, their spouses, their children and grandchildren and the
 1337 spouses of such children and grandchildren, or the landowner's parents, resident or nonresident, to hunt, trap
 1338 and fish within the boundaries of their own lands and inland waters or while within such boundaries or upon
 1339 any private permanent extension therefrom, to fish in any abutting public waters.

1340 B. No license shall be required of any stockholder owning 50 percent or more of the stock of any domestic

1341 corporation owning land in this Commonwealth, his or her spouse and children and minor grandchildren,
1342 resident or nonresident, to hunt, trap and fish within the boundaries of lands and inland waters owned by the
1343 domestic corporation.

1344 C. No license shall be required of bona fide tenants, renters or lessees to hunt, trap or fish within the
1345 boundaries of the lands or waters on which they reside or while within such boundaries or upon any private
1346 permanent extension therefrom, to fish in any abutting public waters if such individuals have the written
1347 consent of the landlord upon their person. A guest of the owner of a private fish pond shall not be required to
1348 have a fishing license to fish in such pond.

1349 D. No license shall be required of resident or nonresident persons under 16 years of age to fish.

1350 D1. No license shall be required of resident persons under 12 years of age to hunt, provided such person is
1351 accompanied and directly supervised by an adult who has, on his person, a valid Virginia hunting license as
1352 described in subsection B of § 29.1-300.1.

1353 E. No license shall be required of a resident person 65 years of age or over to hunt or trap on private
1354 property in the county or city in which he resides. An annual license at a fee of \$1 shall be required of a
1355 resident person 65 years of age or older to fish in any inland waters of the Commonwealth, which shall be in
1356 addition to a license to fish for trout as specified in subsection B of § 29.1-310 or a special lifetime trout
1357 fishing license as specified in § 29.1-302.4. A resident 65 years of age or older may, upon proof of age
1358 satisfactory to the Department and the payment of a \$1 fee, apply for and receive from any authorized agent
1359 of the Department a nontransferable annual license permitting such person to hunt or an annual license
1360 permitting such person to trap in all cities and counties of the Commonwealth. Any lifetime license issued
1361 pursuant to this article prior to July 1, 1988, shall remain valid for the lifetime of the person to whom it was
1362 issued. Any license issued pursuant to this section includes any damage stamp required pursuant to Article 3
1363 (§ 29.1-352 et seq.) of this chapter.

1364 F. No license to fish shall be required of nonresident persons under 16 years of age when accompanied by
1365 a person possessing a valid license to fish in Virginia.

1366 G. No license shall be required to trap rabbits with box traps.

1367 H. No license shall be required of resident persons under 16 years of age to trap when accompanied by
1368 any person 18 years of age or older who possesses a valid state license to trap in this Commonwealth.

1369 I. No license to hunt, trap or fish shall be required of any ~~Indian who habitually resides on an Indian~~
1370 ~~reservation or of a member or citizen of the~~ a Virginia recognized ~~tribes~~ *tribe* who resides in the
1371 Commonwealth; however, such ~~Indian member or citizen~~ must have on his person an identification card or
1372 paper signed by the chief of his tribe, a valid tribal identification card, written confirmation through a central
1373 tribal registry, or certification from a tribal office. Such card, paper, confirmation, or certification shall set
1374 forth that the person named is ~~an actual resident upon such reservation or a member or citizen of the~~
1375 ~~recognized tribes in the Commonwealth~~ a Virginia recognized *tribe*, and such card, paper, confirmation or
1376 certification shall create a presumption of residence, which may be rebutted by proof of actual residence
1377 elsewhere. *For the purposes of this subsection, the term "Virginia recognized tribe" has the same meaning as*
1378 *that term is defined in § 2.2-6100.*

1379 J. No license to fish shall be required of legally blind persons.

1380 K. No fishing license shall be required in any inland waters of the Commonwealth on free fishing days.
1381 The Board shall designate no more than three free fishing days in any calendar year. In the event that a free
1382 day is canceled as a result of an inclement weather event, the Board may designate another free fishing day in
1383 its place.

1384 L. No license to fish, except for trout as provided in § 29.1-302.4 or subsection B of § 29.1-310, in Laurel
1385 Lake and Beaver Pond at Breaks Interstate Park shall be required of a resident of the State of Kentucky who
1386 (i) possesses a valid license to fish in Kentucky or (ii) is exempt under Kentucky law from the requirement of
1387 possessing a valid fishing license.

1388 M. No license to fish, except for trout as provided in subsection B of § 29.1-310, shall be required of a
1389 member of the armed forces of the United States, on active duty, who is a resident of the Commonwealth
1390 while such person is on official leave, provided that person presents a copy of his leave papers upon request.

1391 N. No license to hunt or fish shall be required of any person who is not hunting or fishing but is aiding a
1392 disabled person to hunt or fish when such disabled person possesses a valid Virginia hunting or fishing
1393 license under § 29.1-302, 29.1-302.1, or 29.1-302.2.

1394 **§ 29.1-401. Exemptions as to fur permits.**

1395 A. A permit shall not be required of any hunter or trapper to possess or dispose of the hides, furs or pelts
1396 of wild animals legally shot or caught by him nor of any person lawfully engaging in the business of fur
1397 farming to possess or to dispose of the hides, furs or pelts of wild animals raised by him.

1398 B. A permit shall not be required of any Virginia resident who is a member of ~~an American Indian tribe~~
1399 ~~recognized by the Commonwealth or a member of a federally recognized American Indian~~ a Virginia
1400 *recognized tribe, as that term is defined in § 2.2-6100*, to buy and possess the hides, furs, pelts or skeletal
1401 parts of legally obtained wild animals, except bear as prohibited in § 29.1-536, when such items are to be

1402 used as part of traditional American Indian religious practices. Resale of items obtained under this section is
1403 prohibited.

1404 C. The Board may adopt regulations providing further exemptions to the permit requirement.

1405 **§ 29.1-521. Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as**
1406 **permitted; exception; penalty.**

1407 A. The following is unlawful:

1408 1. To hunt or kill on Sunday (i) any wild bird or wild animal, including any nuisance species, with a gun,
1409 firearm, or other weapon, within 200 yards of a place of worship or any accessory structure thereof or (ii) any
1410 deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs.

1411 2. To destroy or harass the nest, eggs, dens, or young of any wild bird or wild animal, except nuisance
1412 species, at any time without a permit as required by law.

1413 3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily
1414 bag or season limit during such day or season. However, any properly licensed person, or a person exempt
1415 from having to obtain a license, who has obtained such daily bag or season limit while hunting may assist
1416 others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives if the
1417 weapon in his possession is an unloaded firearm, a bow without a nocked arrow, an unloaded slingshot, an
1418 unloaded arrowgun, or an unloaded crossbow. Any properly licensed person, or person exempt from having
1419 to obtain a license, who has obtained such season limit prior to commencement of the hunt may assist others
1420 who are hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he
1421 does not have a firearm, bow, slingshot, arrowgun, or crossbow in his possession.

1422 4. To knowingly occupy any baited blind or other baited place for the purpose of taking or attempting to
1423 take any wild bird or wild animal or to put out bait or salt for any wild bird or wild animal for the purpose of
1424 taking or killing it. There shall be a rebuttable presumption that a person charged with violating this
1425 subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or
1426 attempting to take any wild bird or wild animal. However, this shall not apply to baiting nuisance species of
1427 animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully
1428 trapped.

1429 5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in
1430 progress.

1431 6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except (i)
1432 as provided in § 29.1-521.3 or (ii) for the killing of nuisance species as defined in § 29.1-100 on private
1433 property by the owner of such property or his designee from a stationary automobile or other stationary
1434 vehicle.

1435 7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name
1436 and address of the trapper; or (ii) an identification number issued by the Department.

1437 8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

1438 9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the
1439 landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may
1440 authorize employees of federal, state, and local government agencies, and persons holding a valid
1441 Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that are
1442 completely submerged at least once every 72 hours, and the Board may adopt regulations permitting trappers
1443 to visit traps less frequently under specified conditions. The Board shall adopt regulations permitting trappers
1444 to use remote trap-checking technology to check traps under specified conditions.

1445 10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for transportation,
1446 transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at
1447 any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as
1448 specifically permitted by law and only by the manner or means and within the numbers stated. However, the
1449 provisions of this section shall not be construed to prohibit the (i) use or transportation of legally taken turkey
1450 carcasses, or portions thereof, for the purposes of making or selling turkey callers; (ii) the manufacture or sale
1451 of implements, including tools or utensils made from legally harvested deer skeletal parts, including antlers;
1452 (iii) the possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements
1453 authorized by regulations adopted by the Board.

1454 11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or
1455 wild animal or the carcass or any part thereof, except as specifically permitted by law, including subsection D
1456 of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal
1457 Revenue Code that is (i) organized to provide wild game as food to the hungry and (ii) authorized by the
1458 Department to possess, transport, and distribute donated or unclaimed meat to the hungry may pay a
1459 processing fee in order to obtain such meat. Such fee shall not exceed the actual cost for processing the meat.
1460 In addition, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code
1461 that is (a) organized to support wildlife habitat conservation and (b) approved by the Department shall be
1462 allowed to offer wildlife mounts that have undergone the taxidermy process for sale in conjunction with

1463 fundraising activities. A violation of this subdivision shall be punishable as provided in § 29.1-553.

1464 12. To offer for sale, sell, offer to purchase, or purchase a hunt guaranteeing the killing of a deer, bear, or
1465 wild turkey. Nothing in this subdivision shall prevent a landowner from leasing land for hunting. A violation
1466 of this subdivision shall be punishable as provided in § 29.1-553.

1467 B. Notwithstanding any other provision of this article, any American Indian who produces verification
1468 that he is an enrolled member of a *Virginia recognized tribe, as that term is defined in § 2.2-6100, or other*
1469 *tribe recognized by the Commonwealth, another U.S. state, or the U.S. federal government*, may possess,
1470 offer for sale, or sell to another American Indian, or offer to purchase or purchase from another American
1471 Indian, parts of legally obtained fur-bearing animals, nonmigratory game birds, and game animals, except
1472 bear. Such legally obtained parts shall include antlers, hooves, feathers, claws, and bones.

1473 "Verification" as used in this section shall include (i) display of a valid tribal identification card, (ii)
1474 confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv) certification
1475 from a tribal office that the person is an enrolled member of the tribe.

1476 C. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake
1477 exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of
1478 snakes resulting from the use of such devices.

1479 D. A violation of subdivisions A 1 through 10 shall be punishable as a Class 3 misdemeanor.

1480 **§ 32.1-272. Certified copies of vital records; other copies.**

1481 A. In accordance with § 32.1-271 and the regulations adopted pursuant thereto, the State Registrar or a
1482 district health department shall, upon receipt of a written request, issue a certified copy of any vital record in
1483 the custody of the State Registrar or of a part thereof.

1484 The Commissioner of the Department of Motor Vehicles shall be authorized to issue a certified copy of a
1485 birth, death, marriage, or divorce vital record, or a part thereof, in the custody of the State Registrar.

1486 Such vital records in the State Registrar's custody may be in the form of originals, photoprocessed
1487 reproductions or data filed by electronic means.

1488 Each copy issued shall show the date of registration. Any copy issued from a record marked "delayed" or
1489 "amended," except a record amended pursuant to subsection F of this section or subsection E of § 32.1-269,
1490 shall be similarly marked and show the effective date.

1491 Certified copies may be issued by county and city registrars only while the original record is in their
1492 possession, except that at the option of the county or city registrar true and complete copies of death
1493 certificates may be retained and certified copies of such records may be issued by the county or city registrar.

1494 B. A certified copy of a vital record or any part thereof issued in accordance with subsection A shall be
1495 considered for all purposes the same as the original and shall be prima facie evidence of the facts therein
1496 stated, provided that the evidentiary value of a vital record filed more than one year after the event or a vital
1497 record which has been amended shall be determined by the judicial or administrative body or official before
1498 whom the certificate is offered as evidence.

1499 C. The federal agency responsible for national vital statistics may be furnished such copies or other data
1500 from the system of vital records as it may require for national statistics if such federal agency shares in the
1501 cost of collecting, processing and transmitting such data. Such data may be used for research and medical
1502 investigations of public health importance. No other use of such data shall be made by the federal agency
1503 unless authorized by the State Registrar.

1504 D. Other federal, state and local, public or private agencies or persons in the conduct of their official
1505 duties may, upon request and payment of a reasonable fee, be furnished copies or other data from the system
1506 of vital records for statistical or administrative purposes upon such terms or conditions as may be prescribed
1507 by the Board. Such copies or other data shall not be used for purposes other than those for which they were
1508 requested unless so authorized by the State Registrar.

1509 In promulgating regulations relating to the terms or conditions for public or private agencies or persons
1510 obtaining copies of death certificates in the conduct of their official duties, the Board shall include within its
1511 definition of "legal representative" (i) any attorney licensed to practice law in Virginia, upon presentation of
1512 his bar number and evidence of need to obtain such copy; and (ii) any funeral director or funeral service
1513 licensee licensed to practice by the Board of Funeral Directors and Embalmers, upon presentation of evidence
1514 to so practice and evidence of being in charge of final disposition of the registrant's dead human remains or
1515 cremains or evidence of need to obtain such copy.

1516 E. No person shall prepare or issue any certificate which purports to be an original or certified copy of a
1517 vital record except as authorized in this chapter or regulations adopted hereunder.

1518 F. Certified copies of birth records filed before July 1, 1960, containing statements of racial designation
1519 on the reverse thereof shall be issued without such statement as a part of the certification; nor for this purpose
1520 solely shall such certification be marked "amended."

1521 Any American Indian or ~~Native American~~ whose certified copy of a birth record filed before July 1, 1960,
1522 contains a racial designation that is incorrect may obtain, without paying a fee, one certified copy of his birth
1523 record from which such incorrect racial designation has been removed. Such certification shall not be marked

1524 "amended" solely for this reason.

1525 G. With the increased fees to be charged for vital records and the additional deposits to the Vital Statistics
1526 Automation Fund, the Board of Health shall establish, within the district health departments, a statewide
1527 system for decentralizing certification of vital records, when such records are prepared or issued from data in
1528 the custody of the State Registrar and the Board of Health. Such system shall include the Department of
1529 Motor Vehicles pursuant to the authorization in subsection A.

1530 **§ 36-105.5. Enforcement of Building Code on American Indian reservations.**

1531 A. Recognizing the unique relationship between the Commonwealth and certain of its state-recognized
1532 ~~Indian~~ *Virginia recognized* tribes, and notwithstanding any other provision of law, neither the
1533 Commonwealth nor any locality therein is responsible for the enforcement of the provisions of the Uniform
1534 Statewide Building Code (§ 36-97 et seq.) on any ~~Indian~~ reservation of a *Virginia recognized* by the
1535 ~~Commonwealth~~ *tribe* whereupon a state-recognized ~~Indian~~ *Virginia recognized* tribe has, by duly enacted
1536 tribal ordinance, adopted the Uniform Statewide Building Code and (i) assumed sole responsibility for
1537 existing buildings and new construction on the reservation and (ii) for purposes of enforcing the ordinance,
1538 retained firms or individuals to function as the building official on such reservation.

1539 B. Nothing in this section shall be construed to confer or infer responsibility or liability on any party for
1540 any action undertaken prior to July 1, 2015.

1541 C. *For the purposes of this section, the term "Virginia recognized tribe" has the same meaning as that*
1542 *term is defined in § 2.2-6100.*

1543 **§ 51.1-700. Definitions.**

1544 As used in this chapter, unless the context requires a different meaning:

1545 "Agreement" means the federal-state agreement between the federal agency and the Commonwealth
1546 entered into on February 16, 1952, as authorized by this chapter, for the purpose of extending coverage under
1547 the Social Security Act and any subsequent modifications thereto.

1548 "Applicable federal law" refers to provisions of federal law, including federal regulations and
1549 requirements issued pursuant thereto, that provide for extending the benefits of the Social Security Act and
1550 the Federal Insurance Contributions Act to employees of states and their political subdivisions.

1551 "Board" means the Board of Trustees of the Virginia Retirement System.

1552 "Employee tax" means the tax imposed by § 3101 of the Internal Revenue Code of 1986, as amended.

1553 "Employer" means the Commonwealth or a political subdivision thereof, as defined in this chapter.

1554 "Employment" means employment as defined in the Social Security Act as modified under the terms of
1555 the agreement and pursuant to the authority granted the state social security administrator under § 51.1-707.

1556 "Federal agency" means the federal officer, department, or agency charged on behalf of the federal
1557 government with the particular federal functions referred to in this chapter in connection with such term.

1558 "Federal Insurance Contributions Act" means subchapters A and B of Chapter 21 of the Internal Revenue
1559 Code of 1986, as amended.

1560 "Local employee" means any officer or employee of a political subdivision and includes "special
1561 employees," which means a county or city treasurer, commissioner of revenue, attorney for the
1562 Commonwealth, clerk of court, sheriff, and a deputy or employee of any such officer.

1563 "Modification" means an amendment to the original agreement to modify coverage for coverage groups or
1564 to extend coverage to additional coverage groups consistent with the provisions of Section 218 of the Social
1565 Security Act and this chapter.

1566 "Plan of agreement" means an agreement between the state social security administrator and an employer
1567 for the purpose of extending the benefits of the Social Security Act to coverage groups within its employ.

1568 "Political subdivision" includes an instrumentality of the Commonwealth or one or more of its political
1569 subdivisions, or of the Commonwealth and one or more of its political subdivisions, but only if such
1570 instrumentality is a juristic entity which is legally separate and distinct from the Commonwealth or a political
1571 subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the
1572 Commonwealth or a political subdivision. "Political subdivision" includes ~~Indian~~ *Virginia recognized* tribes
1573 *as that term is defined in § 2.2-6100.*

1574 "Social Security Act" means the act of Congress approved August 14, 1935, Chapter 531, 49 Statutes 620,
1575 officially cited as the "Social Security Act," as such act has been and may be amended.

1576 "State employee" means any person who is employed in the service of the Commonwealth but shall not
1577 include any member of the General Assembly or local employee.

1578 "State social security administrator" means the Director of the Virginia Retirement System.

1579 "Teacher" means any person who is regularly employed on a salaried basis as a professional or clerical
1580 employee of a county, city, or other local public school board.

1581 "Wages" means all remuneration for employment, including the cash value of all remuneration paid in any
1582 medium other than cash, except that part of such remuneration which, even if it were paid for "employment"
1583 within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the
1584 meaning of that act.

1585 **§ 56-46.1. Commission to consider environmental, economic, and improvements in service**

1586 **reliability factors in approving construction of electrical utility facilities; approval required for**
1587 **construction of certain electrical transmission lines; notice and hearings.**

1588 A. Whenever the Commission is required to approve the construction of any electrical utility facility, it
1589 shall give consideration to the effect of that facility on the environment and establish such conditions as may
1590 be desirable or necessary to minimize adverse environmental impact. In order to avoid duplication of
1591 governmental activities, any valid permit or approval required for an electric generating plant and associated
1592 facilities issued or granted by a federal, state, or local governmental entity charged by law with responsibility
1593 for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental
1594 impact or for other specific public interest issues such as building codes, transportation plans, and public
1595 safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be
1596 deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the
1597 permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in
1598 issuing such permit or approval, and the Commission shall impose no additional conditions with respect to
1599 such matters. Nothing in this section shall affect the ability of the Commission to keep the record of a case
1600 open. Nothing in this section shall affect any right to appeal such permits or approvals in accordance with
1601 applicable law. In the case of a proposed facility located in a region that was designated as of July 1, 2001, as
1602 serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the
1603 Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of
1604 any environmental permit or approval. In every proceeding under this subsection, the Commission shall
1605 receive and give consideration to all reports that relate to the proposed facility by state agencies concerned
1606 with environmental protection; and if requested by any county or municipality in which the facility is
1607 proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223
1608 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (a) shall consider the effect of the
1609 proposed facility on economic development within the Commonwealth, including but not limited to
1610 furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth
1611 in § 45.2-1706.1, and (b) shall consider any improvements in service reliability that may result from the
1612 construction of such facility.

1613 B. Subject to the provisions of subsection J, no electrical transmission line of 138 kilovolts or more shall
1614 be constructed unless the State Corporation Commission shall, after at least 30 days' advance notice by (i)
1615 publication in a newspaper or newspapers of general circulation in the counties and municipalities through
1616 which the line is proposed to be built, (ii) written notice to the governing body of each such county and
1617 municipality, and (iii) causing to be sent a copy of the notice by first class mail to all owners of property
1618 within the route of the proposed line, as indicated on the map or sketch of the route filed with the
1619 Commission, which requirement shall be satisfied by mailing the notice to such persons at such addresses as
1620 are indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer of
1621 the county or municipality, approve such line. Such notices shall include a written description of the proposed
1622 route the line is to follow, as well as a map or sketch of the route including a digital geographic information
1623 system (GIS) map provided by the public utility showing the location of the proposed route. The Commission
1624 shall make GIS maps provided under this subsection available to the public on the Commission's website.
1625 Such notices shall be in addition to the advance notice to the chief administrative officer of the county or
1626 municipality required pursuant to § 15.2-2202.

1627 As a condition to approval the Commission shall determine that the line is needed and that the corridor or
1628 route chosen for the line will avoid or reasonably minimize adverse impact to the greatest extent reasonably
1629 practicable on the scenic assets, historic and cultural resources recorded with the Department of Historic
1630 Resources, cultural resources identified by federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes*,
1631 and environment of the area concerned. To assist the Commission in this determination, as part of the
1632 application for Commission approval of the line, the applicant shall summarize its efforts to avoid or
1633 reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic
1634 resources recorded with the Department of Historic Resources, and environment of the area concerned. In
1635 making the determinations about need, corridor or route, and method of installation, the Commission shall
1636 verify the applicant's load flow modeling, contingency analyses, and reliability needs presented to justify the
1637 new line and its proposed method of installation. If the local comprehensive plan of an affected county or
1638 municipality designates corridors or routes for electric transmission lines and the line is proposed to be
1639 constructed outside such corridors or routes, in any hearing the county or municipality may provide adequate
1640 evidence that the existing planned corridors or routes designated in the plan can adequately serve the needs of
1641 the company. Additionally, the Commission shall consider, upon the request of the governing body of any
1642 county or municipality in which the line is proposed to be constructed, (a) the costs and economic benefits
1643 likely to result from requiring the underground placement of the line and (b) any potential impediments to
1644 timely construction of the line.

1645 C. If, prior to such approval, any interested party shall request a public hearing, the Commission shall, as
1646 soon as reasonably practicable after such request, hold such hearing or hearings at such place as may be

1647 designated by the Commission. In any hearing, the public service company shall provide adequate evidence
1648 that existing rights-of-way cannot adequately serve the needs of the company.

1649 If, prior to such approval, written requests therefor are received from the governing body of any county or
1650 municipality through which the line is proposed to be built or from 20 or more interested parties, the
1651 Commission shall hold at least one hearing in the area that would be affected by construction of the line, for
1652 the purpose of receiving public comment on the proposal. If any hearing is to be held in the area affected, the
1653 Commission shall direct that a copy of the transcripts of any previous hearings held in the case be made
1654 available for public inspection at a convenient location in the area for a reasonable time before such local
1655 hearing.

1656 D. As used in this section, unless the context requires a different meaning:

1657 "Environment" or "environmental" shall be deemed to include in meaning "historic," as well as a
1658 consideration of the probable effects of the line on the health and safety of the persons in the area concerned.

1659 "*Federally recognized tribe*" has the same meaning as that term is defined in § 2.2-6100.

1660 "Interested parties" includes the governing bodies of any counties or municipalities through which the line
1661 is proposed to be built and persons residing or owning property in each such county or municipality.

1662 "Public utility" means a public utility as defined in § 56-265.1.

1663 "Qualifying facilities" means a cogeneration or small power production facility that meets the criteria of
1664 18 C.F.R. Part 292.

1665 "Reasonably accommodate requests to wheel or transmit power" means:

1666 1. That the applicant will make available to new electric generation facilities constructed after January 9,
1667 1991, qualifying facilities and other nonutilities, a minimum of one-fourth of the total megawatts of the
1668 additional transmission capacity created by the proposed line, for the purpose of wheeling to public utility
1669 purchasers the power generated by such qualifying facilities and other nonutility facilities which are awarded
1670 a power purchase contract by a public utility purchaser in compliance with applicable state law or regulations
1671 governing bidding or capacity acquisition programs for the purchase of electric capacity from nonutility
1672 sources, provided that the obligation of the applicant will extend only to those requests for wheeling service
1673 made within the 12 months following certification by the State Corporation Commission of the transmission
1674 line and with effective dates for commencement of such service within the 12 months following completion
1675 of the transmission line; and

1676 2. That the wheeling service offered by the applicant, pursuant to subdivision 1, will reasonably further
1677 the purposes of the Public Utilities Regulatory Policies Act of 1978 (P. L. 95-617), as demonstrated by
1678 submitting to the Commission, with its application for approval of the line, the cost methodologies, terms,
1679 conditions, and dispatch and interconnection requirements the applicant intends, subject to any applicable
1680 requirements of the Federal Energy Regulatory Commission, to include in its agreements for such wheeling
1681 service.

1682 E. In the event that, at any time after the giving of the notice required in subsection B, it appears to the
1683 Commission that consideration of a route or routes significantly different from the route described in the
1684 notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed
1685 in accordance with subsection B. The Commission shall thereafter comply with the provisions of this section
1686 with respect to the new route or routes to the full extent necessary to give affected localities, federally
1687 recognized Tribal Nations in the Commonwealth tribes, and interested parties in the newly affected areas the
1688 same protection afforded to affected localities and interested parties affected by the route described in the
1689 original notice.

1690 F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the requirements of §
1691 15.2-2232 and local zoning ordinances with respect to such transmission line.

1692 G. The Commission shall enter into a memorandum of agreement with the Department of Environmental
1693 Quality regarding the coordination of their reviews of the environmental impact of electric generating plants
1694 and associated facilities. If the proposed plants or associated facilities are in a locality identified by the
1695 Ombudsman for Tribal Consultation pursuant to subdivision B 2 of § 2.2-401.01, such consultation
1696 information shall be included in the memorandum of agreement.

1697 H. An applicant that is required to obtain (i) a certificate of public convenience and necessity from the
1698 Commission for any electric generating facility, electric transmission line, natural or manufactured gas
1699 transmission line as defined in 49 C.F.R. § 192.3, or natural or manufactured gas storage facility (hereafter,
1700 an energy facility) and (ii) an environmental permit for the energy facility that is subject to issuance by any
1701 agency or board within the Secretariat of Natural and Historic Resources, may request a pre-application
1702 planning and review process. In any such request to the Commission or the Secretariat of Natural and
1703 Historic Resources, the applicant shall identify the proposed energy facility for which it requests the
1704 pre-application planning and review process. The Commission, the Department of Environmental Quality, the
1705 Marine Resources Commission, the Department of Wildlife Resources, the Department of Historic
1706 Resources, the Department of Conservation and Recreation, and other appropriate agencies of the
1707 Commonwealth shall participate in the pre-application planning and review process. Participation in such

1708 process shall not limit the authority otherwise provided by law to the Commission or other agencies or boards
 1709 of the Commonwealth. The Commission and other participating agencies and boards of the Commonwealth
 1710 may invite federal and local governmental entities charged by law with responsibility for issuing permits or
 1711 approvals and potentially impacted federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to
 1712 participate in the pre-application planning and review process. Through the pre-application planning and
 1713 review process, the applicant, the Commission, participating agencies and boards of the Commonwealth, and
 1714 potentially impacted federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* shall identify the
 1715 potential impacts and approvals that may be required and shall develop a plan that will provide for an
 1716 efficient and coordinated review of the proposed energy facility. The plan shall include (a) a list of the
 1717 permits or other approvals likely to be required based on the information available, (b) a specific plan and
 1718 preliminary schedule for the different reviews, (c) a plan for coordinating those reviews and the related public
 1719 comment process, and (d) designation of points of contact, either within each agency or for the
 1720 Commonwealth as a whole, to facilitate this coordination. The plan shall be made readily available to the
 1721 public and shall be maintained on a dedicated website to provide current information on the status of each
 1722 component of the plan and each approval process including opportunities for public comment.

1723 I. The provisions of this section shall not apply to the construction and operation of a small renewable
 1724 energy project, as defined in § 10.1-1197.5, by a utility regulated pursuant to this title for which the
 1725 Department of Environmental Quality has issued a permit by rule pursuant to Article 5 (§ 10.1-1197.5 et seq.)
 1726 of Chapter 11.1 of Title 10.1.

1727 J. Approval under this section shall not be required for any transmission line for which a certificate of
 1728 public convenience and necessity is not required pursuant to subdivision A of § 56-265.2.

1729 **§ 56-576. Definitions.**

1730 As used in this chapter:

1731 "Affiliate" means any person that controls, is controlled by, or is under common control with an electric
 1732 utility.

1733 "Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases,
 1734 electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on
 1735 behalf of, two or more retail customers not controlled by or under common control with such person. The
 1736 following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i)
 1737 furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational,
 1738 informational, or analytical services to two or more retail customers, unless direct or indirect compensation
 1739 for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational,
 1740 informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service
 1741 under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587,
 1742 which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common
 1743 with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of
 1744 electric energy for consumption by such retail customers.

1745 "Business park" means a land development containing a minimum of 100 contiguous acres classified as a
 1746 Tier 4 site under the Virginia Economic Development Partnership's Business Ready Sites Program that is
 1747 developed and constructed by a locality, an industrial development authority, or a similar political
 1748 subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly, in
 1749 order to promote business development.

1750 "Combined heat and power" means a method of using waste heat from electrical generation to offset
 1751 traditional processes, space heating, air conditioning, or refrigeration.

1752 "Commission" means the State Corporation Commission.

1753 "Community in which a majority of the population are people of color" means a U.S. Census tract where
 1754 more than 50 percent of the population comprises individuals who identify as belonging to one or more of the
 1755 following groups: Black, African American, Asian, Pacific Islander, ~~Native American~~ *Indian*, other
 1756 non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

1757 "Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

1758 "Covered entity" means a provider in the Commonwealth of an electric service not subject to competition
 1759 but does not include default service providers.

1760 "Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving
 1761 stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

1762 "Curtailement" means inducing retail customers to reduce load during times of peak demand so as to ease
 1763 the burden on the electrical grid.

1764 "Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric
 1765 energy from any supplier licensed and seeking to sell electric energy to that customer.

1766 "Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to
 1767 times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion
 1768 and higher prices in the electrical grid.

1769 "Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy

1770 through a retail distribution system to a retail customer.

1771 "Distributor" means a person owning, controlling, or operating a retail distribution system to provide
1772 electric energy directly to retail customers.

1773 "Electric distribution grid transformation project" means a project associated with electric distribution
1774 infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate the
1775 integration of utility-owned or customer-owned renewable electric generation resources with the utility's
1776 electric distribution grid or to otherwise enhance electric distribution grid reliability, electric distribution grid
1777 security, customer service, or energy efficiency and conservation, including advanced metering infrastructure;
1778 intelligent grid devices for real time system and asset information; automated control systems for electric
1779 distribution circuits and substations; communications networks for service meters; intelligent grid devices
1780 and other distribution equipment; distribution system hardening projects for circuits, other than the
1781 conversion of overhead tap lines to underground service, and substations designed to reduce service outages
1782 or service restoration times; physical security measures at key distribution substations; cyber security
1783 measures; energy storage systems and microgrids that support circuit-level grid stability, power quality,
1784 reliability, or resiliency or provide temporary backup energy supply; electrical facilities and infrastructure
1785 necessary to support electric vehicle charging systems; LED street light conversions; and new customer
1786 information platforms designed to provide improved customer access, greater service options, and expanded
1787 access to energy usage information.

1788 "Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail
1789 customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or
1790 electric utility owned or operated by a municipality.

1791 "Electrification" means measures that (i) electrify space heating, water heating, cooling, drying, cooking,
1792 industrial processes, and other building and industrial end uses that would otherwise be served by onsite,
1793 nonelectric fuels, provided that the electrification measures reduce site energy consumption; (ii) to the
1794 maximum extent practical, seek to combine with federally authorized customer rebates for heat pump
1795 technology; and (iii) for those measures that provide measurable and verifiable energy savings to low-income
1796 customers or elderly customers, to the maximum extent practical, seek to combine with either
1797 contemporaneously installed measures or previously installed measures that are or were provided under
1798 federally funded weatherization programs or state-provided, locality-provided, or utility-provided energy
1799 efficiency programs.

1800 "Energy efficiency program" means a program that reduces the total amount of energy that is required for
1801 the same process or activity implemented after the expiration of capped rates but does not include
1802 electrification of any process or activity primarily fueled by natural gas. Energy efficiency programs include
1803 equipment, physical, or program change designed to produce measured and verified reductions in the amount
1804 of site energy required to perform the same function and produce the same or a similar outcome. Energy
1805 efficiency programs may include (i) electrification; (ii) programs that result in improvements in lighting
1806 design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and
1807 commercial processes; (iii) measures, such as the installation of advanced meters, implemented or installed
1808 by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in
1809 generation, transmission, and distribution systems; and (iv) customer engagement programs that result in
1810 measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency
1811 programs include demand response, combined heat and power and waste heat recovery, curtailment, or other
1812 programs that are designed to reduce site energy consumption so long as they reduce the total amount of site
1813 energy that is required for the same process or activity. Utilities shall be authorized to install and operate such
1814 advanced metering technology and equipment on a customer's premises; however, nothing in this chapter
1815 establishes a requirement that an energy efficiency program be implemented on a customer's premises and be
1816 connected to a customer's wiring on the customer's side of the inter-connection without the customer's
1817 expressed consent. Electricity consumption increases that result from Commission-approved electrification
1818 measures shall not be considered as a reduction in energy savings under the energy savings requirements set
1819 forth in subsection B of § 56-596.2. Utilities may apply verified total site energy reductions that are
1820 attributable to Commission-approved electrification measures to the energy savings requirements set forth in
1821 subsection B of § 56-596.2, subject to a conversion of British thermal unit-based energy savings to an
1822 equivalent kilowatt-hour-based energy savings, which conversion shall be subject to Commission approval.

1823 "Generate," "generating," or "generation of" electric energy means the production of electric energy.

1824 "Generator" means a person owning, controlling, or operating a facility that produces electric energy for
1825 sale.

1826 "Geothermal heating and cooling system" means a system that:

1827 1. Exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy
1828 through an electric geothermal heat pump or a system of electric geothermal heat pumps interconnected with
1829 any geothermal extraction facility that is (i) a closed loop or a series of closed loop systems in which fluid is
1830 permanently confined within a pipe or tubing and does not come in contact with the outside environment or

- 1831 (ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner
 1832 directly into the facility and returned to the same aquifer or surface water source;
- 1833 2. Meets or exceeds the current federal Energy Star product specification standards;
- 1834 3. Replaces or displaces less efficient space or water heating systems, regardless of fuel type;
- 1835 4. Replaces or displaces less efficient space cooling systems that do not meet federal Energy Star product
 1836 specification standards; and
- 1837 5. Does not feed electricity back to the grid.
- 1838 "Historically economically disadvantaged community" means (i) a community in which a majority of the
 1839 population are people of color or (ii) a low-income geographic area.
- 1840 "Incremental annual savings" means the total combined kilowatt-hour savings achieved by electric utility
 1841 energy efficiency and demand response programs and measures in the program year in which they are
 1842 installed.
- 1843 "Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999,
 1844 supplied electric energy to retail customers located in an exclusive service territory established by the
 1845 Commission.
- 1846 "Independent system operator" means a person that may receive or has received, by transfer pursuant to
 1847 this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission
 1848 systems in the Commonwealth.
- 1849 "In the public interest," for purposes of assessing energy efficiency programs prior to the 2029 program
 1850 year, describes an energy efficiency program if the Commission determines that the net present value of the
 1851 benefits exceeds the net present value of the costs as determined by not less than any three of the following
 1852 four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program
 1853 Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such
 1854 determination shall include an analysis of all four tests, and a program or portfolio of programs shall be
 1855 approved if the net present value of the benefits exceeds the net present value of the costs as determined by
 1856 not less than any three of the four tests. For programs proposed for the 2029 program year and all subsequent
 1857 years, the Commission shall establish targets pursuant to subdivision B 4 of § 56-596.2, and a program shall
 1858 be approved if the Commission determines it is cost-effective pursuant to applicable Commission regulations
 1859 and that the net present value of the benefits exceeds the net present value of the costs as determined by the
 1860 Total Resource Cost Test. If the Commission determines that an energy efficiency program or portfolio of
 1861 programs is not in the public interest, its final order shall include all work product and analysis conducted by
 1862 the Commission's staff in relation to that program, including testimony relied upon by the Commission's staff,
 1863 that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a
 1864 program or portfolio of programs, its final order shall include an analysis of the impact such budget reduction
 1865 has upon the cost-effectiveness of such program or portfolio of programs. An order by the Commission (a)
 1866 finding that a program or portfolio of programs is not in the public interest or (b) reducing the proposed
 1867 budget for any program or portfolio of programs shall adhere to existing protocols for extraordinarily
 1868 sensitive information. In addition, an energy efficiency program may be deemed to be "in the public interest"
 1869 if the program (1) provides measurable and verifiable energy savings to low-income customers or elderly
 1870 customers or (2) is a pilot program of limited scope, cost, and duration, that is intended to determine whether
 1871 a new or substantially revised program or technology would be cost-effective.
- 1872 "Low-income geographic area" means any locality, or community within a locality, that has a median
 1873 household income that is not greater than 80 percent of the local median household income, or any area in the
 1874 Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his
 1875 delegation of authority to the Internal Revenue Service.
- 1876 "Low-income utility customer" means any person or household whose income is no more than 80 percent
 1877 of the median income of the locality in which the customer resides. The median income of the locality is
 1878 determined by the U.S. Department of Housing and Urban Development.
- 1879 "Measured and verified" means a process determined pursuant to methods accepted for use by utilities and
 1880 industries to measure, verify, and validate energy savings and peak demand savings. This may include the
 1881 protocol established by the United States Department of Energy, Office of Federal Energy Management
 1882 Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and
 1883 verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning
 1884 Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific
 1885 energy efficiency measures, as determined by the Commission.
- 1886 "Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.
- 1887 "New underground facilities" means facilities to provide underground distribution service. "New
 1888 underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted
 1889 devices, connections at customer meters, and transition terminations from existing overhead distribution
 1890 sources.
- 1891 "Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods

1892 to times of lower demand by inducing retail customers to curtail electricity usage during periods of
1893 congestion and higher prices in the electrical grid.

1894 "Percentage of Income Payment Program (PIPP) eligible utility customer" means any person or household
1895 whose income does not exceed 150 percent of the federal poverty level.

1896 "Person" means any individual, corporation, partnership, association, company, business, trust, joint
1897 venture, or other private legal entity, and the Commonwealth or any municipality.

1898 "Previously developed project site" means any property, including related buffer areas, if any, that has
1899 been previously disturbed or developed for non-single-family residential, non-agricultural, or non-
1900 silvicultural use, regardless of whether such property currently is being used for any purpose.

1901 "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has
1902 been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of
1903 a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place
1904 before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department
1905 of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

1906 "Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that does
1907 not have, as its primary purpose, the production of electricity and (ii) a pressure drop in any gas for an
1908 industrial or commercial process.

1909 "Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or
1910 otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal
1911 solid waste, wave motion, tides, geothermal heating and cooling systems, and geothermal power and does not
1912 include energy derived from coal, oil, natural gas, or nuclear power. "Renewable energy" also includes the
1913 proportion of the thermal or electric energy from a facility that results from the co-firing of biomass.
1914 "Renewable energy" does not include waste heat from fossil-fired facilities or electricity generated from
1915 pumped storage but includes run-of-river generation from a combined pumped-storage and run-of-river
1916 facility.

1917 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat
1918 and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b)
1919 located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power
1920 generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and
1921 Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and
1922 improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for
1923 residential, commercial, institutional, or industrial purposes.

1924 "Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable
1925 thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the
1926 renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial
1927 process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

1928 "Renovated and improved facility" means a facility the components of which have been upgraded to
1929 enhance its operating efficiency.

1930 "Retail customer" means any person that purchases retail electric energy for its own consumption at one
1931 or more metering points or nonmetered points of delivery located in the Commonwealth.

1932 "Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

1933 "Revenue reductions related to energy efficiency programs" means reductions in the collection of total
1934 non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that
1935 occur due to measured and verified decreased consumption of electricity caused by energy efficiency
1936 programs approved by the Commission and implemented by the utility, less the amount by which such non-
1937 fuel reductions in total revenues have been mitigated through other program-related factors, including
1938 reductions in variable operating expenses.

1939 "Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation
1940 and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts,
1941 that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer,
1942 including host sites on commercial buildings, multifamily residential buildings, school or university
1943 buildings, and buildings of a church or religious body.

1944 "Solar energy system" means a system of components that produces heat or electricity, or both, from
1945 sunlight.

1946 "Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to
1947 sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not
1948 mean a generator that produces electric energy exclusively for its own consumption or the consumption of an
1949 affiliate.

1950 "Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail
1951 customer.

1952 "Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by electric

- 1953 utility energy efficiency and demand response programs and measures installed in that program year, as well
 1954 as savings still being achieved by measures and programs implemented in prior years, or (ii) savings
 1955 attributable to newly installed combined heat and power facilities, including waste heat-to-power facilities,
 1956 and any associated reduction in transmission line losses, provided that biomass is not a fuel and the total
 1957 efficiency, including the use of thermal energy, for eligible combined heat and power facilities must meet or
 1958 exceed 65 percent and have a nameplate capacity rating of less than 25 megawatts.
- 1959 "Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy
 1960 through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a
 1961 retail customer.
- 1962 "Transmission system" means those facilities and equipment that are required to provide for the
 1963 transmission of electric energy.
- 1964 "Waste heat to power" means a system that generates electricity through the recovery of a qualified waste
 1965 heat resource.
- 1966 **§ 58.1-2201. Definitions.**
- 1967 As used in this chapter, unless the context requires otherwise:
- 1968 "Alternative fuel" means a combustible gas, liquid or other energy source that can be used to generate
 1969 power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric
 1970 motor vehicle or a hybrid electric motor vehicle.
- 1971 "Alternative fuel vehicle" means a vehicle equipped to be powered by a combustible gas, liquid, or other
 1972 source of energy that can be used to generate power to operate a highway vehicle and that is neither a motor
 1973 fuel nor electricity used to recharge an electric motor vehicle or a hybrid electric motor vehicle.
- 1974 "Assessment" means a written determination by the Department of the amount of taxes owed by a
 1975 taxpayer. Assessments made by the Department shall be deemed to be made when a written notice of
 1976 assessment is delivered to the taxpayer by the Department or is mailed to the taxpayer at the last known
 1977 address appearing in the Commissioner's files.
- 1978 "Aviation consumer" means any person who uses in excess of 100,000 gallons of aviation jet fuel in any
 1979 fiscal year and is licensed pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter.
- 1980 "Aviation fuel" means aviation gasoline or aviation jet fuel.
- 1981 "Aviation gasoline" means fuel designed for use in the operation of aircraft other than jet aircraft, and sold
 1982 or used for that purpose.
- 1983 "Aviation jet fuel" means fuel designed for use in the operation of jet or turbo-prop aircraft, and sold or
 1984 used for that purpose.
- 1985 "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de
 1986 minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in
 1987 a highway vehicle.
- 1988 "Blender" means a person who produces blended fuel outside the terminal transfer system.
- 1989 "Bonded aviation jet fuel" means aviation jet fuel held in bonded storage under United States Customs
 1990 Law and delivered into a fuel tank of aircraft operated by certificated air carriers on international flights.
- 1991 "Bonded importer" means a person, other than a supplier, who imports, by transport truck or another
 1992 means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in another
 1993 state in which (i) the state from which the fuel is imported does not require the seller of the fuel to collect
 1994 motor fuel tax on the removal either at that state's rate or the rate of the destination state; (ii) the supplier of
 1995 the fuel is not an elective supplier; or (iii) the supplier of the fuel is not a permissive supplier.
- 1996 "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which
 1997 motor fuel may be removed at a rack.
- 1998 "Bulk user" means a person who maintains storage facilities for motor fuel and uses part or all of the
 1999 stored fuel to operate a highway vehicle, watercraft, or aircraft.
- 2000 "Bulk user of alternative fuel" means a person who maintains storage facilities for alternative fuel and
 2001 uses part or all of the stored fuel to operate a highway vehicle.
- 2002 "Commercial watercraft" means a watercraft employed in the business of commercial fishing, transporting
 2003 persons or property for compensation or hire, or any other trade or business unless the watercraft is used in an
 2004 activity of a type generally considered entertainment, amusement, or recreation. The definition shall include a
 2005 watercraft owned by a private business and used in the conduct of its own business or operations, including
 2006 but not limited to the transport of persons or property.
- 2007 "Commissioner" means the Commissioner of the Department of Motor Vehicles.
- 2008 "Corporate or partnership officer" means an officer or director of a corporation, partner of a partnership,
 2009 or member of a limited liability company, who as such officer, director, partner or member is under a duty to
 2010 perform on behalf of the corporation, partnership, or limited liability company the tax collection, accounting,
 2011 or remitting obligations.
- 2012 "Department" means the Department of Motor Vehicles, acting directly or through its duly authorized
 2013 officers and agents.
- 2014 "Designated inspection site" means any state highway inspection station, weigh station, agricultural

- 2015 inspection station, mobile station, or other location designated by the Commissioner or his designee to be
2016 used as a fuel inspection site.
- 2017 "Destination state" means the state, territory, or foreign country to which motor fuel is directed for
2018 delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose
2019 of resale or use. The term shall not include a tribal reservation of any recognized Native American *Indian*
2020 tribe.
- 2021 "Diesel fuel" means any liquid that is suitable for use as a fuel in a diesel-powered highway vehicle or
2022 watercraft. The term shall include undyed #1 fuel oil and undyed #2 fuel oil, but shall not include gasoline or
2023 aviation jet fuel.
- 2024 "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for
2025 subsequent sale.
- 2026 "Dyed diesel fuel" means diesel fuel that meets the dyeing and marking requirements of 26 U.S.C. § 4082.
- 2027 "Elective supplier" means a supplier who (i) is required to be licensed in the Commonwealth and (ii)
2028 elects to collect the tax due the Commonwealth on motor fuel that is removed at a terminal located in another
2029 state and has Virginia as its destination state.
- 2030 "Electric motor vehicle" means a motor vehicle that uses electricity as its only source of motive power.
- 2031 "End seller" means the person who sells fuel to the ultimate user of the fuel.
- 2032 "Export" means to obtain motor fuel in Virginia for sale or distribution in another state, territory, or
2033 foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller, and
2034 motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.
- 2035 "Exporter" means a person who obtains motor fuel in Virginia for sale or distribution in another state,
2036 territory, or foreign country.
- 2037 "Fuel" includes motor fuel and alternative fuel.
- 2038 "Fuel alcohol" means methanol or fuel grade ethanol.
- 2039 "Fuel alcohol provider" means a person who (i) produces fuel alcohol or (ii) imports fuel alcohol outside
2040 the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a railroad tank
2041 car.
- 2042 "Gasohol" means a blended fuel composed of gasoline and fuel grade ethanol.
- 2043 "Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and are
2044 suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have an
2045 American Society for Testing Materials octane number of less than 75 as determined by the motor method;
2046 (ii) a petroleum product component of gasoline, such as naphtha, reformat, or toluene; (iii) gasohol; and (iv)
2047 fuel grade ethanol. The term does not include aviation gasoline sold for use in an aircraft engine.
- 2048 "Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the United
2049 States or its departments, agencies, and instrumentalities.
- 2050 "Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature,
2051 pressure, or other adjustments.
- 2052 "Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2 fuel oil,
2053 and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial processing purposes.
- 2054 "Highway" means every way or place of whatever nature open to the use of the public for purposes of
2055 vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.
- 2056 "Highway vehicle" means a self-propelled vehicle designed for use on a highway.
- 2057 "Hybrid electric motor vehicle" means a motor vehicle that uses electricity and another source of motive
2058 power.
- 2059 "Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel
2060 supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the seller
2061 constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or for the
2062 purchaser constitutes an import by the purchaser.
- 2063 "Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel into
2064 Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For purposes of this
2065 chapter, a motor fuel transporter shall not be considered an importer.
- 2066 "In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to collect
2067 the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal located in another
2068 state and has Virginia as its destination state or (ii) a supplier who does business only in Virginia.
- 2069 "Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et seq.) of
2070 this chapter or § 58.1-2244.
- 2071 "Liquid" means any substance that is liquid above its freezing point.
- 2072 "Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.
- 2073 "Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a tank
2074 wagon, a transport truck, a railroad tank car, or a marine vessel.
- 2075 "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of 60

- 2076 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.
- 2077 "Occasional importer" means any person who (i) imports motor fuel by any means outside the terminal
- 2078 transfer system and (ii) is not required to be licensed as a bonded importer.
- 2079 "Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a supplier's
- 2080 license under this chapter.
- 2081 "Person" means any individual; firm; cooperative; association; corporation; limited liability company;
- 2082 trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in
- 2083 bankruptcy; club, society or other group or combination acting as a unit; or public body, including but not
- 2084 limited to the Commonwealth, any other state, and any agency, department, institution, political subdivision
- 2085 or instrumentality of the Commonwealth or any other state.
- 2086 "Position holder" means a person who holds an inventory position of motor fuel in a terminal, as reflected
- 2087 on the records of the terminal operator. A person holds an "inventory position of motor fuel" when he has a
- 2088 contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the
- 2089 terminal. The term includes a terminal operator who owns fuel in the terminal.
- 2090 "Principal" means (i) if a partnership, all its partners; (ii) if a corporation, all its officers, directors, and
- 2091 controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or an
- 2092 individual.
- 2093 "Provider of alternative fuel" means a person who (i) acquires alternative fuel for sale or delivery to a bulk
- 2094 user or a retailer; (ii) maintains storage facilities for alternative fuel, part or all of which the person sells to
- 2095 someone other than a bulk user or a retailer to operate a highway vehicle; (iii) sells alternative fuel and uses
- 2096 part of the fuel acquired for sale to operate a highway vehicle by means of a fuel supply line from the cargo
- 2097 tank of the vehicle to the engine of the vehicle; or (iv) imports alternative fuel into Virginia, by a means other
- 2098 than the usual tank or receptacle connected with the engine of a highway vehicle, for sale or use by that
- 2099 person to operate a highway vehicle.
- 2100 "Rack" means a facility that contains a mechanism for delivering motor fuel from a refinery, terminal, or
- 2101 bulk plant into a transport truck, railroad tank car, or other means of transfer that is outside the terminal
- 2102 transfer system.
- 2103 "Refiner" means any person who owns, operates, or otherwise controls a refinery.
- 2104 "Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum
- 2105 products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel or at a
- 2106 rack.
- 2107 "Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to
- 2108 a transport truck or other means of conveyance outside the terminal transfer system is complete upon delivery
- 2109 into the means of conveyance.
- 2110 "Retailer" means a person who (i) maintains storage facilities for motor fuel and (ii) sells the fuel at retail
- 2111 or dispenses the fuel at a retail location.
- 2112 "Retailer of alternative fuel" means a person who (i) maintains storage facilities for alternative fuel and
- 2113 (ii) sells or dispenses the fuel at retail, to be used to generate power to operate a highway vehicle.
- 2114 "Supplier" means (i) a position holder, or (ii) a person who receives motor fuel pursuant to a two-party
- 2115 exchange. A licensed supplier includes a licensed elective supplier and licensed permissive supplier.
- 2116 "System transfer" means a transfer (i) of motor fuel within the terminal transfer system or (ii) of fuel
- 2117 grade ethanol by transport truck or railroad tank car.
- 2118 "Tank wagon" means a straight truck or straight truck/trailer combination designed or used to carry fuel
- 2119 and having a capacity of less than 6,000 gallons.
- 2120 "Terminal" means a motor fuel storage and distribution facility (i) to which a terminal control number has
- 2121 been assigned by the Internal Revenue Service, (ii) to which motor fuel is supplied by pipeline or marine
- 2122 vessel, and (iii) from which motor fuel may be removed at a rack.
- 2123 "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.
- 2124 "Terminal transfer system" means a motor fuel distribution system consisting of refineries, pipelines,
- 2125 marine vessels, and terminals, and which is a "bulk transfer/terminal system" under 26 C.F.R. Part 48.4081-1.
- 2126 "Transmix" means (i) the buffer or interface between two different products in a pipeline shipment or (ii)
- 2127 a mix of two different products within a refinery or terminal that results in an off-grade mixture.
- 2128 "Transport truck" means a tractor truck/semitrailer combination designed or used to transport cargoes of
- 2129 motor fuel over a highway.
- 2130 "Trustee" means a person who (i) is licensed as a supplier, an elective supplier, or a permissive supplier
- 2131 and receives tax payments from and on behalf of a licensed or unlicensed distributor, or other person pursuant
- 2132 to § 58.1-2231 or (ii) is licensed as a provider of alternative fuel and receives tax payments from and on
- 2133 behalf of a bulk user of alternative fuel, retailer of alternative fuel or other person pursuant to § 58.1-2252.
- 2134 "Two-party exchange" means a transaction in which fuel is transferred from one licensed supplier to
- 2135 another licensed supplier pursuant to an exchange agreement, which transaction (i) includes a transfer from
- 2136 the person who holds the inventory position in taxable motor fuel in the terminal as reflected on the records

2137 of the terminal operator and (ii) is completed prior to removal of the product from the terminal by the
2138 receiving exchange partner.

2139 "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection
2140 Agency or Internal Revenue Service fuel-dyeing requirements.

2141 "Use" means the actual consumption or receipt of motor fuel by any person into a highway vehicle,
2142 aircraft, or watercraft.

2143 "Watercraft" means any vehicle used on waterways.

2144 "Wholesale price" means the price at the rack.

2145 **§ 58.1-2403. Exemptions.**

2146 No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

2147 1. Sold to or used by the United States government or any governmental agency thereof;

2148 2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;

2149 3. Registered in the name of a volunteer fire department or volunteer emergency medical services agency
2150 not operated for profit;

2151 4. Registered to any member *or citizen* of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or
2152 any other *Virginia* recognized ~~Indian~~ tribe of the Commonwealth, *as that term is defined in § 2.2-6100*, living
2153 on the tribal reservation;

2154 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the
2155 lienholder;

2156 6. A manufactured home permanently attached to real estate and included in the sale of real estate;

2157 7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a spouse,
2158 this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;

2159 8. Transferred from an individual or partnership to a corporation or limited liability company or from a
2160 corporation or limited liability company to an individual or partnership if the transfer is incidental to the
2161 formation, organization or dissolution of a corporation or limited liability company in which the individual or
2162 partnership holds the majority interest;

2163 9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to
2164 a wholly owned subsidiary;

2165 10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable
2166 title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has
2167 owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and
2168 provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the
2169 applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to
2170 another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the
2171 time of registration in Virginia;

2172 11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

2173 b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any
2174 commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this
2175 subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in §
2176 46.2-602.2;

2177 12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus
2178 line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on
2179 the same day;

2180 13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of
2181 recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

2182 14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the
2183 use of a church conducted not for profit;

2184 15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the
2185 instruction of driver's education when such education is a part of such school's curriculum for full-time
2186 students;

2187 16. Sold to an insurance company or local government group self-insurance pool, created pursuant to §
2188 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of
2189 such vehicle a total loss claim;

2190 17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of
2191 foreign governments, their employees or agents, and members of their families, if such persons are nationals
2192 of the state by which they are appointed and are not citizens of the United States;

2193 18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit
2194 hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal
2195 Revenue Code;

2196 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier
2197 or common carrier of passengers;

2198 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or

2199 therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service
 2200 organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation
 2201 as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy
 2202 for human ailments;

2203 21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of
 2204 the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

2205 22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the
 2206 Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing,
 2207 medicines, and other necessities of life to, and providing shelter for, needy persons in the United States and
 2208 throughout the world;

2209 23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia
 2210 titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other
 2211 beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed
 2212 between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees
 2213 holding title to the motor vehicle;

2214 24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the
 2215 beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in
 2216 the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death
 2217 of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

2218 25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the
 2219 lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect
 2220 to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon
 2221 request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the
 2222 Commonwealth by the lessee purchasing the vehicle;

2223 26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such
 2224 deceased person;

2225 27. An all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, that:

2226 a. Is being titled for the first time in the Commonwealth and that the applicant (i) has owned for more than
 2227 12 months or (ii) has owned for less than 12 months and provides evidence of tax paid pursuant to Chapter 6
 2228 (§ 58.1-600 et seq.); or

2229 b. Would otherwise be eligible for an agricultural exemption, as provided in § 58.1-609.2;

2230 28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of the
 2231 Internal Revenue Code and that is primarily used by the organization to transport to markets for sale produce
 2232 that is (i) produced by local farmers and (ii) sold by such farmers to the organization;

2233 29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted the
 2234 vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or (ii)
 2235 otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded to the
 2236 purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the Virginia
 2237 Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of purchase; or

2238 30. Any pickup or panel truck or sport utility vehicle for which the owner is required to obtain a
 2239 permanent farm use placard pursuant to § 46.2-684.2. However, the tax as provided in § 58.1-2402 shall be
 2240 imposed upon such vehicle based upon the current market value from the time such vehicle is (i) registered
 2241 for a nonexempt use as required by § 46.2-600 or (ii) sold to a person who does not qualify for an exemption
 2242 pursuant to this section.

2243 **§ 59.1-480. Definitions.**

2244 As used in this chapter:

2245 (1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other
 2246 circumstances and from rules, regulations, and procedures given the effect of agreements under laws
 2247 otherwise applicable to a particular transaction.

2248 (2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by
 2249 electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by
 2250 an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling
 2251 an obligation required by the transaction.

2252 (3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an
 2253 information processing system in order to bring about a certain result.

2254 (4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this
 2255 chapter and other applicable law.

2256 (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,
 2257 electromagnetic, or similar capabilities.

2258 (6) "Electronic agent" means a computer program or an electronic or other automated means used
 2259 independently to initiate an action or respond to electronic records or performances in whole or in part,

2260 without review or action by an individual.

2261 (7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by
2262 electronic means.

2263 (8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically
2264 associated with a record and executed or adopted by a person with the intent to sign the record.

2265 (9) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the
2266 like.

2267 (10) "Information processing system" means an electronic system for creating, generating, sending,
2268 receiving, storing, displaying, or processing information.

2269 (11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
2270 company, association, joint venture, public body, public corporation, or any other legal or commercial entity.

2271 (12) "Public body" shall have the same meaning as defined in § 2.2-3701 and shall also include locally
2272 elected constitutional officers, and anyone performing the duties of locally elected constitutional officers.

2273 (13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic
2274 or other medium and is retrievable in perceivable form.

2275 (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic
2276 signature, record, or performance is that of a specific person or for detecting changes or errors in the
2277 information in an electronic record. The term includes a procedure that requires the use of algorithms or other
2278 codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

2279 (15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States
2280 Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term
2281 includes an *American* Indian tribe or band, or an Alaskan native village, which is recognized by federal law
2282 or formally acknowledged by a state.

2283 (16) "Transaction" means an action or set of actions occurring between two or more persons relating to
2284 the conduct of business, commercial, or governmental affairs.

2285 **§ 62.1-266. Ground water withdrawal permits.**

2286 A. The Board may issue any ground water withdrawal permit upon terms, conditions, and limitations
2287 necessary for the protection of the public welfare, safety, and health.

2288 B. Applications for ground water withdrawal permits shall be in a form prescribed by the Board and shall
2289 contain such information, consistent with this chapter, as the Board deems necessary.

2290 C. All ground water withdrawal permits issued by the Board under this chapter shall have a fixed term not
2291 to exceed 15 years. The term of a ground water withdrawal permit issued by the Board shall not be extended
2292 by modification beyond the maximum duration, and the permit shall expire at the end of the term unless a
2293 complete application for a new permit has been filed in a timely manner as required by the regulations of the
2294 Board, and the Board is unable, through no fault of the permittee, to issue a new permit before the expiration
2295 date of the previous permit.

2296 D. Renewed ground water withdrawal permits shall be for a withdrawal amount that includes such savings
2297 as can be demonstrated to have been achieved through water conservation, provided that a beneficial use of
2298 the permitted ground water can be demonstrated for the following permit term.

2299 E. Any permit issued by the Board under this chapter may, after notice and opportunity for a hearing, be
2300 amended or revoked on any of the following grounds or for good cause as may be provided by the regulations
2301 of the Board:

2302 1. The permittee has violated any regulation or order of the Board pertaining to ground water, any
2303 condition of a ground water withdrawal permit, any provision of this chapter, or any order of a court, where
2304 such violation presents a hazard or potential hazard to human health or the environment or is representative of
2305 a pattern of serious or repeated violations that, in the opinion of the Board, demonstrates the permittee's
2306 disregard for or inability to comply with applicable laws, regulations, or requirements;

2307 2. The permittee has failed to disclose fully all relevant material facts or has misrepresented a material fact
2308 in applying for a permit, or in any other report or document required under this chapter or under the ground
2309 water withdrawal regulations of the Board;

2310 3. The activity for which the permit was issued endangers human health or the environment and can be
2311 regulated to acceptable levels by amendment or revocation of the permit; or

2312 4. There exists a material change in the basis on which the permit was issued that requires either a
2313 temporary or a permanent reduction or elimination of the withdrawal controlled by the permit necessary to
2314 protect human health or the environment.

2315 F. No application for a ground water withdrawal permit shall be considered complete unless the applicant
2316 has provided the Executive Director of the Board with notification from the governing body of the locality in
2317 which the withdrawal is to occur that the location and operation of the withdrawing facility is in compliance
2318 with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The provisions of this
2319 subsection shall not apply to any applicant exempt from compliance under Chapter 22 (§ 15.2-2200 et seq.)
2320 of Title 15.2.

2321 G. A ground water withdrawal permit shall authorize withdrawal of a specific amount of ground water

2322 through a single well or system of wells, including a backup well or wells, or such other means as the
2323 withdrawer specifies.

2324 H. The Board may adopt regulations to develop a general permit for the regulation of irrigation
2325 withdrawals from the surficial aquifer greater than 300,000 gallons in any one month. Regulations adopted
2326 pursuant to this subsection shall provide that withdrawals from the surficial aquifer may be permitted under
2327 either a general permit developed pursuant to this subsection or another ground water withdrawal permit.

2328 I. The Board shall promulgate regulations establishing criteria for determining whether the quantity or
2329 quality of the ground water in a surficial aquifer is adequate to meet a proposed beneficial use. Such
2330 regulations shall specify the information required to be submitted to the Department by a golf course or any
2331 other person seeking a determination from the Department that either the quantity or quality of the ground
2332 water in a surficial aquifer is not adequate to meet a proposed beneficial use. Such regulations shall require
2333 the Department, within 30 days of receipt of a complete request, to make a determination as to the adequacy
2334 of the quantity or quality of the ground water in a surficial aquifer.

2335 J. If the proposed permit will allow for ground water withdrawals greater than 365 million gallons per
2336 year in a locality identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2 of §
2337 2.2-401.01, the Board shall ensure that the Department consults with any potentially impacted federally
2338 recognized ~~Tribal Nations in the Commonwealth~~ *tribe* pursuant to the policies and procedures adopted by the
2339 Department pursuant to § 10.1-1186.3:1. Should feedback from a potentially impacted federally recognized
2340 ~~Tribal Nations in the Commonwealth~~ *tribe* not be received by the deadline established in the Department's
2341 policies and procedures, the consultation provisions of this section shall be deemed fulfilled. *For the*
2342 *purposes of this subsection, the term "federally recognized tribe" has the same meaning as that term is*
2343 *defined in § 2.2-6100.*

2344 **§ 64.2-701. Definitions.**

2345 As used in this chapter, unless the context requires a different meaning:

2346 "Action," with respect to an act of a trustee, includes a failure to act.

2347 "Appointive property" means the property or property interest subject to a power of appointment.

2348 "Ascertainable standard" means a standard relating to an individual's health, education, support, or
2349 maintenance within the meaning of § 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986 and
2350 any applicable regulations.

2351 "Authorized fiduciary" means (i) a trustee or other fiduciary, other than a settlor, that has discretion to
2352 distribute or direct a trustee to distribute part or all of the income or principal of the first trust to one or more
2353 current beneficiaries and that is not (a) a current beneficiary of the first trust or a beneficiary to which the net
2354 income or principal of the first trust would be distributed if the first trust were terminated, (b) a trustee of the
2355 first trust that may be removed and replaced by a current beneficiary who has the power to remove the
2356 existing trustee of the first trust and designate as successor trustee a person that may be a related or
2357 subordinate party, as defined in 26 U.S.C. § 672(c), with respect to such current beneficiary, or (c) an
2358 individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income
2359 and principal of the first trust; (ii) a special fiduciary appointed under § 64.2-779.6; or (iii) a special-needs
2360 fiduciary under § 64.2-779.10.

2361 "Beneficiary" means a person that (i) has a present or future, vested or contingent, beneficial interest in a
2362 trust; (ii) holds a power of appointment over trust property; or (iii) is an identified charitable organization that
2363 will or may receive distributions under the terms of the trust.

2364 "Charitable interest" means an interest in a trust that (i) is held by an identified charitable organization and
2365 makes the organization a qualified beneficiary; (ii) benefits only charitable organizations and, if the interest
2366 were held by an identified charitable organization, would make the organization a qualified beneficiary; or
2367 (iii) is held solely for charitable purposes and, if the interest were held by an identified charitable
2368 organization, would make the organization a qualified beneficiary.

2369 "Charitable organization" means (i) a person, other than an individual, organized and operated exclusively
2370 for charitable purposes or (ii) a government or governmental subdivision, agency, or instrumentality, to the
2371 extent that it holds funds exclusively for a charitable purpose.

2372 "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion
2373 of health, a municipal or other governmental purpose, or another purpose the achievement of which is
2374 beneficial to the community.

2375 "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in §
2376 64.2-723.

2377 "Conservator" means a person appointed by the court to administer the estate of an adult individual.

2378 "Court" means the court of the Commonwealth having jurisdiction in matters related to trusts.

2379 "Current beneficiary" means a beneficiary that on the date the beneficiary's qualification is determined is a
2380 distributee or permissible distributee of trust income or principal. "Current beneficiary" includes the holder of
2381 a presently exercisable general power of appointment but does not include a person that is a beneficiary only
2382 because the person holds any other power of appointment.

2383 "Decanting power" means the power of an authorized fiduciary under the Uniform Trust Decanting Act (§

- 2384 64.2-779.1 et seq.) to distribute property of a first trust to one or more second trusts or to modify the terms of
2385 the first trust.
- 2386 "Directed trustee" means a trustee that is subject to a trust director's power of direction.
- 2387 "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to
2388 protection of the environment.
- 2389 "Expanded distributive discretion" means a discretionary power of distribution that is not limited to an
2390 ascertainable standard or a reasonably definite standard.
- 2391 "First trust" means a trust over which an authorized fiduciary may exercise the decanting power.
- 2392 "First-trust instrument" means the trust instrument for a first trust.
- 2393 "General power of appointment" means a power of appointment exercisable in favor of a powerholder, the
2394 powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.
- 2395 "Guardian" means a person appointed by the court to make decisions regarding the support, care,
2396 education, health, and welfare of a minor or adult individual. The term does not include a guardian ad litem.
- 2397 "Guardian of the estate" means a person appointed by the court to administer the estate of a minor.
- 2398 "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.
- 2399 "Jurisdiction," with respect to a geographic area, includes a state or country.
- 2400 "Person" means an individual; estate; business or nonprofit entity; government; governmental subdivision,
2401 agency, or instrumentality; public corporation; or other legal entity.
- 2402 "Powerholder" means a person in which a donor creates a power of appointment.
- 2403 "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to
2404 designate a recipient of an ownership interest in or another power of appointment over the appointive
2405 property. "Power of appointment" does not include a power of attorney.
- 2406 "Power of direction" means a power over a trust granted to a person by the terms of the trust to the extent
2407 the power is exercisable while the person is not serving as a trustee. The term includes a power over the
2408 investment, management, or distribution of trust property or other matters of trust administration. The term
2409 excludes the powers described in subsection A of § 64.2-779.28.
- 2410 "Power of withdrawal" means a presently exercisable general power of appointment other than a power
2411 exercisable by a trustee that is limited by an ascertainable standard, or that is exercisable by another person
2412 only upon consent of the trustee or a person holding an adverse interest.
- 2413 "Presently exercisable power of appointment" means a power of appointment exercisable by the
2414 powerholder at the relevant time. "Presently exercisable power of appointment" includes a power of
2415 appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable
2416 standard, or the passage of a specified time, only after (i) the occurrence of the specified event, (ii) the
2417 satisfaction of the ascertainable standard, or (iii) the passage of the specified time. "Presently exercisable
2418 power of appointment" does not include a power exercisable only at the powerholder's death.
- 2419 "Property" means anything that may be the subject of ownership, whether real or personal, legal or
2420 equitable, or any interest therein.
- 2421 "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined,
2422 (i) is a distributee or permissible distributee of trust income or principal; (ii) would be a distributee or
2423 permissible distributee of trust income or principal if the interests of the distributees described in clause (i)
2424 terminated on that date without causing the trust to terminate; or (iii) would be a distributee or permissible
2425 distributee of trust income or principal if the trust terminated on that date.
- 2426 "Reasonably definite standard" means a clearly measurable standard under which a holder of a power of
2427 distribution is legally accountable within the meaning of § 674(b)(5)(A) of the Internal Revenue Code of
2428 1986 and any applicable regulations.
- 2429 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
2430 other medium and is retrievable in perceivable form.
- 2431 "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a
2432 person holding an adverse interest.
- 2433 "Second trust" means (i) a first trust after modification, including a restatement of the first trust, under the
2434 Uniform Trust Decanting Act (§ 64.2-779.1 et seq.) or (ii) a trust to which a distribution of property from a
2435 first trust is or may be made under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).
- 2436 "Second-trust instrument" means the trust instrument for a second trust.
- 2437 "Settlor," except as otherwise provided in § 64.2-779.22, means a person, including a testator, who creates
2438 or contributes property to a trust. If more than one person creates or contributes property to a trust, each
2439 person is a settlor of the portion of the trust property attributable to that person's contribution except to the
2440 extent another person has the power to revoke or withdraw that portion.
- 2441 "Sign" means, with present intent to authenticate or adopt a record, (i) to execute or adopt a tangible
2442 symbol or (ii) to attach to or logically associate with the record an electronic symbol, sound, or process.
- 2443 "Spendthrift provision" means a term of a trust that restrains both voluntary and involuntary transfer of a
2444 beneficiary's interest.
- 2445 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin

2446 Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term
2447 includes an *American* Indian tribe or band recognized by federal law or formally acknowledged by a state.

2448 "Terms of a trust" means:

2449 1. Except as otherwise provided in subdivision 2, the manifestation of the settlor's intent regarding a trust's
2450 provisions as (i) expressed in the trust instrument or (ii) established by other evidence that would be
2451 admissible in a judicial proceeding; or

2452 2. The trust's provisions as established, determined, or amended by (i) a trustee or trust director in
2453 accordance with applicable law, (ii) court order, or (iii) a nonjudicial settlement agreement under § 64.2-709.

2454 "Trust director" means a person that is granted a power of direction by the terms of a trust to the extent the
2455 power is exercisable while the person is not serving as a trustee. The person is a trust director whether or not
2456 the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or
2457 settlor of the trust.

2458 "Trust instrument" means a record executed by the settlor to create a trust or by any person to create a
2459 second trust that contains some or all of the terms of the trust, including any amendments.

2460 "Trustee" includes an original, additional, and successor trustee and a cotrustee.

2461 **§ 64.2-2100. Definitions.**

2462 In this chapter:

2463 "Adult" means an individual who has attained 18 years of age.

2464 "Conservator" means a person appointed by the court to administer the property of an adult, including a
2465 person appointed under Chapter 20 (§ 64.2-2000 et seq.).

2466 "Conservatorship order" means an order appointing a conservator.

2467 "Court" means a court of competent jurisdiction as determined by otherwise applicable Virginia law to
2468 establish, enforce, or modify a guardianship or conservatorship order or an entity authorized under the law of
2469 another state to establish, enforce, or modify a guardianship or conservatorship order.

2470 "Guardian" means a person appointed by the court to make decisions regarding the person of an adult,
2471 including a person appointed under Chapter 20 (§ 64.2-2000 et seq.).

2472 "Guardianship order" means an order appointing a guardian.

2473 "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a
2474 guardian is sought or has been issued.

2475 "Incapacitated person" means an adult for whom a guardian has been appointed.

2476 "Individually identifiable health information" means health information, including demographic
2477 information, collected from an individual that (i) is created or received by a health care provider, health plan,
2478 employer, or health care clearinghouse and (ii) identifies the individual, or there is a reasonable basis to
2479 believe that the information can be used to identify the individual, and relates to (a) the past, present, or
2480 future physical or mental health or condition of the individual, (b) the provision of health care to the
2481 individual, or (c) the past, present, or future payment for the provision of health care to the individual.

2482 "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court
2483 to participate in a guardianship or protective proceeding.

2484 "Person," except in the term "incapacitated person" or "protected person," means an individual,
2485 corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture,
2486 public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or
2487 commercial entity.

2488 "Protected health information" means individually identifiable health information that is (i) transmitted in
2489 electronic media, (ii) maintained in electronic media, or (iii) transmitted or maintained in any other form or
2490 medium. Protected health information excludes individually identifiable health information in (a) education
2491 records covered by the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g); (b) records of any
2492 student who is 18 years of age or older, or is attending a postsecondary school, that are made or maintained
2493 by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his
2494 professional or paraprofessional capacity, or assisting in that capacity, and that are made, maintained, or used
2495 only in connection with the provision of treatment to the student and are not available to anyone other than
2496 persons providing such treatment, except that such records may be personally reviewed by a physician or
2497 other appropriate professional of the student's choice; and (c) employment records held, in its role as
2498 employer, by a health plan, health care clearinghouse, or health care provider that transmits health
2499 information in electronic form.

2500 "Protected person" means an adult for whom a conservatorship order has been issued.

2501 "Protective proceeding" means a judicial proceeding in which a conservatorship order is sought or has
2502 been issued.

2503 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
2504 other medium and is retrievable in perceivable form.

2505 "Respondent" means an adult for whom a conservatorship order or the appointment of a guardian is
2506 sought.

2507 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin

2508 Islands, a federally recognized *American* Indian tribe, or any territory or insular possession subject to the
2509 jurisdiction of the United States.

2510 **§ 64.2-2600. Definitions.**

2511 As used in this chapter:

2512 "Disclaimant" means the person to whom a disclaimed interest or power would have passed had the
2513 disclaimer not been made.

2514 "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not
2515 been made.

2516 "Disclaimer" means the refusal to accept an interest in or power over property.

2517 "Fiduciary" means a personal representative, trustee, agent acting under a power of attorney, or other
2518 person authorized to act as a fiduciary with respect to the property of another person.

2519 "Jointly held property" means property held in the name of two or more persons under an arrangement in
2520 which all holders have concurrent interests and under which the last surviving holder is entitled to the whole
2521 of the property and includes, without limitation, property held as tenants by the entirety.

2522 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
2523 company, association, joint venture, government, governmental subdivision, agency or instrumentality,
2524 public corporation, or any other legal or commercial entity.

2525 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
2526 Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term
2527 includes an *American* Indian tribe or band, or Alaskan native village, recognized by federal law or formally
2528 acknowledged by a state.

2529 "Trust" means (i) an express trust, charitable or noncharitable, with additions thereto, whenever and
2530 however created; and (ii) a trust created pursuant to a statute, judgment, or decree, that requires the trust to be
2531 administered in the manner of an express trust.