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SENATE BILL NO. 1107

Offered January 8, 2025

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A BILL to amend and reenact §§ 2.2-2040, 2.2-3705.6, and 2.2-3705.7 of the Code of Virginia, relating to Virginia Freedom of Information Act; exclusions; Department of Workforce Development and Advancement.

Patron—Jordan

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2040, 2.2-3705.6, and 2.2-3705.7 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2040. Records and reports.

A. Each workforce development program provider shall keep true and accurate training records containing such information as the Department may prescribe. Such records shall be open to inspection and be subject to being copied by the Department or its authorized representatives at any reasonable time and as often as may be necessary. The Department may require from any workforce development program provider any sworn or unsworn reports, with respect to persons employed by it, that the Department deems necessary for the effective administration of this chapter.

B. Notwithstanding the provisions of subsection A, the Department shall, upon written request, furnish the Virginia Economic Development Partnership Authority (the Authority) such information as it may require to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. Any information provided to the Authority under this subsection shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall disclose any confidential information obtained pursuant to this subsection to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards.

C. Any information provided to the Department under this section shall be confidential pursuant to § 60.2-114 and 20 C.F.R. Part 603.

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

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

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

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

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

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

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

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

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

59 8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the
60 Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter
61 10 of Title 32.1.

62 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost
63 projections provided by a private transportation business to the Virginia Department of Transportation and
64 the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed
65 to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L.
66 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of
67 Information Act or the federal Interstate Commerce Act or other laws administered by the Surface
68 Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to
69 the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided
70 by this subdivision shall not apply to any wholly owned subsidiary of a public body.

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

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

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

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

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

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

96 The responsible public entity shall determine whether the requested exclusion from disclosure is
97 necessary to protect the trade secrets or financial information of the private entity. To protect other
98 information submitted by the private entity from disclosure, the responsible public entity shall determine
99 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement
100 would adversely affect the financial interest or bargaining position of the public or private entity. The
101 responsible public entity shall make a written determination of the nature and scope of the protection to be
102 afforded by the responsible public entity under this subdivision. Once a written determination is made by the
103 responsible public entity, the information afforded protection under this subdivision shall continue to be
104 protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

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

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

117 12. Confidential proprietary information or trade secrets, not publicly available, provided by a private
118 person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund
119 administered in connection with financial assistance rendered or to be rendered by the Virginia Resources

120 Authority where, if such information were made public, the financial interest of the private person or entity
121 would be adversely affected.

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

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

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

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

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

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

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

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

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

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

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

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

177 22. Trade secrets, including, but not limited to, financial information, including balance sheets and
178 financial statements, that are not generally available to the public through regulatory disclosure or otherwise,
179 and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector
180 General for the purpose of an audit, special investigation, or any study requested by the Office of the State

181 Inspector General in accordance with law.

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

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

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

187 c. Stating the reasons why protection is necessary.

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

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

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

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

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

208 c. Stating the reasons why protection is necessary.

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

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

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

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

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

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

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

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

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

238 26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of §
239 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting
240 party shall (i) invoke this exclusion upon submission of the data or materials for which protection from
241 disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the

242 reasons why protection is necessary.

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

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

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

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

252 c. Stating the reasons why protection is necessary.

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

267 29. Proprietary information, voluntarily provided by a private business pursuant to a promise of
268 confidentiality from a public body, used by the public body for a solar services or carbon sequestration
269 agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b)
270 financial information of the private business, including balance sheets and financial statements, that are not
271 generally available to the public through regulatory disclosure or otherwise; or (c) other information
272 submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the
273 public body or private business.

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

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

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

279 c. Stating the reasons why protection is necessary.

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

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

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

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

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

296 c. Stating the reasons why protection is necessary.

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

301 32. Information related to a grant application, or accompanying a grant application, submitted to the
302 Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial

303 information of a grant applicant that is not a public body, including balance sheets and financial statements,
 304 that are not generally available to the public through regulatory disclosure or otherwise, or (c)
 305 research-related information produced or collected by the applicant in the conduct of or as a result of study or
 306 research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such
 307 information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the
 308 competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants
 309 administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§
 310 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the
 311 appropriations act.

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

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

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

317 c. Stating the reasons why protection is necessary.

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

321 33. Financial and proprietary records submitted with a loan application to a locality for the preservation or
 322 construction of affordable housing that is related to a competitive application to be submitted to either the
 323 U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development
 324 Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive
 325 position of the applicant. Such records shall not be withheld after they have been made public by HUD or
 326 VHDA.

327 34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits
 328 manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer
 329 pursuant to § 54.1-3442.02.

330 35. Trade secrets, proprietary information, or financial information, including balance sheets and financial
 331 statements, that are not generally available to the public through regulatory disclosure or otherwise, supplied
 332 by an individual or a private or nongovernmental entity to the Fort Monroe Authority for the purpose of
 333 complying with the obligations of any lease, easement, license, permit, or other agreement, whether of a
 334 commercial or residential real estate nature, pertaining to the use or occupancy of any portion of Fort
 335 Monroe.

336 In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the
 337 individual or private or nongovernmental entity shall make a written request to the Fort Monroe Authority:

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

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

341 c. Stating the reasons why protection is necessary.

342 36. *Information of a proprietary or confidential nature, including trade secrets, financial data, employee*
 343 *data, and other sensitive industry information protected by state or federal law, furnished by any private*
 344 *sector entity to the Department of Workforce Development and Advancement (the Department) for the*
 345 *purpose of sponsoring, implementing, and operating (i) an apprenticeship program approved by the*
 346 *Department or (ii) a similar lawful workforce development or public-private partnership that assists the*
 347 *Department in fulfilling its mission and objectives and whose workforce development initiative could not*
 348 *advance without such exemption. The name and contact information of a sponsor, the location of a program,*
 349 *and the occupation or occupations offered shall not be considered exempt under this subdivision.*

350 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**
 351 **other limited exclusions.**

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

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

358 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the
 359 Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks
 360 of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political
 361 subdivision of the Commonwealth; or the president or other chief executive officer of any public institution
 362 of higher education in the Commonwealth. However, no information that is otherwise open to inspection
 363 under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated

364 within any working paper or correspondence. Further, information publicly available or not otherwise subject
 365 to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed
 366 in format without substantive analysis or revision shall not be deemed working papers. Nothing in this
 367 subdivision shall be construed to authorize the withholding of any resumes or applications submitted by
 368 persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

369 As used in this subdivision:

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

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

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

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

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

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

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

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

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

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

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

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

421 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local
 422 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust
 423 established by one or more local public bodies to invest funds for post-retirement benefits other than
 424 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of

425 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The
426 College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers
427 Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other
428 ownership interest in an entity, where such security or ownership interest is not traded on a governmentally
429 regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses
430 prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The
431 College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board
432 of trustees, or the Commonwealth Savers Plan, or provided to the retirement system, a local finance board or
433 board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality of the future value of
434 such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the
435 value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or
436 board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of
437 William and Mary in Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be
438 construed to prevent the disclosure of information relating to the identity of any investment held, the amount
439 invested, or the present value of such investment.

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

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

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

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

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

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

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

484 20. Information held by the Virginia Department of Emergency Management or a local governing body
485 relating to citizen emergency response teams established pursuant to an ordinance of a local governing body

486 that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of
487 an individual participant in the program.

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

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

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

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

510 a. Internal deliberations of or decisions by the retirement system or the Commonwealth Savers Plan on the
511 pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the
512 execution of such investment strategies or the selection or termination of such managers, if disclosure of such
513 information would have an adverse impact on the financial interest of the retirement system or the
514 Commonwealth Savers Plan; and

515 b. Trade secrets provided by a private entity to the retirement system or the Commonwealth Savers Plan if
516 disclosure of such records would have an adverse impact on the financial interest of the retirement system or
517 the Commonwealth Savers Plan.

518 For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity
519 shall make a written request to the retirement system or the Commonwealth Savers Plan:

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

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

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

524 The retirement system or the Commonwealth Savers Plan shall determine whether the requested exclusion
525 from disclosure meets the requirements set forth in subdivision b.

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

528 25. Information held by the Department of Corrections *or the Department of Workforce Development and*
529 *Advancement* made confidential by former § 53.1-233.

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

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

536 28. Information maintained in connection with fundraising activities by the Veterans Services Foundation
537 pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social
538 security number or other identification number appearing on a driver's license or other document issued under
539 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or
540 bank account data of identifiable donors, except that access shall not be denied to the person who is the
541 subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure
542 of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the
543 donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or
544 donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the
545 identities of sponsors providing grants to or contracting with the foundation for the performance of services
546 or other work or (ii) the terms and conditions of such grants or contracts.

547 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the

548 training of state prosecutors or law-enforcement personnel, where such information is not otherwise available
549 to the public and the disclosure of such information would reveal confidential strategies, methods, or
550 procedures to be employed in law-enforcement activities or materials created for the investigation and
551 prosecution of a criminal case.

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

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

559 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are
560 discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child
561 abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse
562 response teams established pursuant to § 15.2-1627.5, (iii) individual cases of abuse, neglect, or exploitation
563 of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§
564 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases are discussed by any human trafficking
565 response team established pursuant to § 15.2-1627.6. The findings of any such team may be disclosed or
566 published in statistical or other aggregated form that does not disclose the identity of specific individuals.

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

574 34. Information discussed in a closed session of the Physical Therapy Compact Commission or the
575 Executive Board or other committees of the Commission for purposes set forth in subsection E of §
576 54.1-3491.

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

583 36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary
584 exclusion program administered pursuant to § 58.1-4015.1.

585 37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any
586 person reporting prohibited conduct pursuant to § 58.1-4043.