

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-234, 2.2-401.01, 2.2-1149, 2.2-1604, 2.2-2699.10, 2.2-4310,*
 3 *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,*
 4 *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,*
 5 *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,*
 6 *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*
 7 *Virginia and to amend the Code of Virginia by adding in Subtitle II of Title 2.2 a part labeled D,*
 8 *containing a chapter numbered 61, consisting of sections numbered 2.2-6100 and 2.2-6101, relating to*
 9 *definitions; American Indians; Virginia recognized tribes; federally recognized tribes; sovereignty.*

10 [S 949]
 11 Approved

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

13 **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,**
 14 **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,**
 15 **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,**
 16 **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,**
 17 **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**
 18 **and reenacted and that the Code of Virginia is amended by adding in Subtitle II of Title 2.2 a part**
 19 **labeled D, containing a chapter numbered 61, consisting of sections numbered 2.2-6100 and 2.2-6101,**
 20 **as follows:**

21 **§ 2.2-234. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

56 **§ 2.2-401.01. Liaison to Virginia American Indian tribes; Ombudsman for Tribal Consultation;**

57 **Virginia Indigenous People's Trust Fund.**

58 A. The Secretary of the Commonwealth shall:

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

62 B. The Secretary of the Commonwealth shall designate, in consultation with and upon the advice of
 63 federally recognized Tribal Nations in the Commonwealth, an Ombudsman for Tribal Consultation (the
 64 Ombudsman). The Ombudsman shall:

65 1. Facilitate communication between federally recognized Tribal Nations in the Commonwealth and
 66 relevant state agencies and local governments for consultation on environmental, cultural, and historical
 67 permits and reviews;

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

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

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

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

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

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

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

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

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

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

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

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

114 D. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
 115 Indigenous People's Trust Fund, referred to in this section as "the Fund." The Fund shall be established on the
 116 books of the Comptroller. All funds appropriated for such purpose, any tax revenue accruing to the Fund
 117 pursuant to § 58.1-4125, and any gifts, donations, grants, bequests, and other funds received on its behalf
 118 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall

119 remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the
 120 end of each fiscal year shall not revert to the general fund but shall remain in the Fund. After payment of the
 121 costs of administration of the Fund, moneys in the Fund shall be used to make disbursements on a quarterly
 122 basis in equal amounts to each of the six ~~Virginia Indian tribes~~ *federally recognized tribes recognized* under
 123 P.L. 115-121 of 2018. Expenditures and disbursements from the Fund shall be made by the State Treasurer
 124 on warrants issued by the Comptroller upon written request signed by the Secretary of the Commonwealth.

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

127 **§ 2.2-1149. Department to review proposed acquisitions of real property; approval by the**
 128 **Governor; exceptions.**

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

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

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

140 2. Acquisition of easements pursuant to the purposes of §§ 10.1-1020 and 10.1-1021 or §§ 10.1-1700,
 141 10.1-1702, and 10.1-1702;

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

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

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

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

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

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

169 **§ 2.2-1604. Definitions.**

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

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

175 "Department" means the Department of Small Business and Supplier Diversity or any division of the
 176 Department to which the Director has delegated or assigned duties and responsibilities.

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

180 "Historically black colleges and university" includes any college or university that was established prior to

181 1964; whose principal mission was, and is, the education of black Americans; and that is accredited by a
 182 nationally recognized accrediting agency or association determined by the Secretary of Education.

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

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

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

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

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

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

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

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

216 "SWaM" means small, women-owned, or minority-owned or related to a small, women-owned, or
 217 minority-owned business.

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

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

225 **§ 2.2-2699.10. Membership; terms; quorum; meetings.**

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

235 Ex officio members of the Council shall serve terms coincident with their terms of office. Appointments
 236 to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled
 237 in the same manner as the original appointments. After the initial staggering of terms, nonlegislative citizen
 238 members shall be appointed for a term of four years.

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

242 C. The Council shall meet quarterly and shall establish a meeting schedule on an annual basis. When

243 possible, the location of the meetings shall rotate among different geographic regions. When possible,
 244 meetings shall be broadcast on the Internet or via teleconference. Each meeting shall include an in-person
 245 public comment component.

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

248 **§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and**
 249 **service disabled veteran-owned businesses and employment services organizations.**

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

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

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

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

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

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

296 F. As used in this section:

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

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

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

304 2. "Asian American" means a person having origins in any of the original peoples of the Far East,

305 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,
 306 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the
 307 Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which
 308 this person claims to be a part.

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

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

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

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

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

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

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

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

346 PART D.

347 STATE AND TRIBAL RELATIONS

348 CHAPTER 61.

349 GENERAL PROVISIONS.

350 § 2.2-6100. Definitions.

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

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

354 "Federally recognized tribe" means a Virginia recognized tribe that is recognized by the United States
 355 Secretary of the Interior to exist as a tribe under the federal Federally Recognized Indian Tribe List Act of
 356 1994 (25 U.S.C. § 5131).

357 "Virginia recognized tribe" means an American Indian tribe within the present-day external boundaries of
 358 the Commonwealth, regardless of federal recognition status, that is formally acknowledged by the
 359 Commonwealth to exist as a tribe as reported by the Secretary of the Commonwealth pursuant to §
 360 2.2-401.01.

361 § 2.2-6101. Sovereignty of federally recognized tribes.

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

367 *the Commonwealth.*

368 **§ 10.1-104.02. Policies for consultation with federally recognized tribes in the Commonwealth.**

369 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
 370 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
 371 for meaningful and appropriate written consultation with potentially impacted federally recognized ~~Tribal~~
 372 ~~Nations in the Commonwealth~~ *tribes* regarding certain major actions or permits issued by the Department.
 373 The Department shall designate an agency official to evaluate the adequacy of consultation and ensure that
 374 agency consultation practices are consistent. Actions and permits appropriate for consultation shall include
 375 the projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
 376 federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* based on tribal preferences, ensure that
 377 sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~
 378 *tribes* to fully engage in consultation regarding the proposed action, and establish procedures for the
 379 Department to provide feedback to the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to
 380 explain how their input was considered. Should feedback from the federally recognized ~~Tribal Nations in the~~
 381 ~~Commonwealth~~ *tribes* not be received by the deadline established in the Department's policies and
 382 procedures, the consultation provisions of this section shall be deemed fulfilled.

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

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

391 **§ 10.1-659. Flood protection programs; coordination.**

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

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

429 C. (Expires February 1, 2025)

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

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

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

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

454 5. The Committee shall meet at least quarterly.

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

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

465 C. (Effective February 1, 2025)

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

470 2. The Committee shall be comprised of representatives of state agencies, coastal planning district
471 commissions, regional commissions, academic advisors, and any other representatives as needed. Members
472 shall serve at the pleasure of the Governor and shall include the following individuals or their designees: the
473 executive directors of coastal planning district commissions and regional commissions; the Special Assistant
474 to the Governor for Coastal Adaptation and Protection; the Director; the Director of the Virginia Department
475 of Emergency Management; the Director of the Virginia Department of Housing and Community
476 Development; the Executive Director of the Virginia Resources Authority; the Director of the Department of
477 Environmental Quality; the Commissioner of the Virginia Department of Transportation; the Director of the
478 Virginia Transportation Research Council; the Commissioner of the Virginia Marine Resources Commission;
479 the Director of the Institute for Coastal Adaptation and Resilience; the Associate Dean for Research and
480 Advisory Services at the Virginia Institute of Marine Science; the Director of the Virginia Coastal Resilience
481 Collaborative at the College of William and Mary in Virginia; the Director of the Virginia Tech Center for
482 Coastal Studies; the Director of the Environmental Resilience Institute at the University of Virginia; the
483 Director of Virginia Sea Grant; the Director of Diversity, Equity, and Inclusion; and the Chief Data Officer of
484 the Commonwealth. The Chief Resilience Officer shall serve as chairman of the Committee.

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

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

489 5. The Committee shall meet at least quarterly.

490 6. The Department, the Special Assistant to the Governor for Coastal Adaptation and Protection, and the

491 Coastal Zone Management Program shall provide staff support to the Committee.

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

500 D. (Effective February 1, 2025)

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

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

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

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

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

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

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

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

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

541 **§ 10.1-1003. Permits for excavation and scientific investigation; how obtained; penalties.**

542 A. In addition to the written permission of the owner required by § 10.1-1004, a permit shall be obtained
543 from the Department prior to excavating or removing any archaeological, paleontological, prehistoric, or
544 historic feature of any cave. Prior to issuing any permit in a locality identified by the Ombudsman for Tribal
545 Consultation pursuant to subdivision B 2 of § 2.2-401.01, the Department shall consult with any federally
546 recognized ~~Tribal Nation in the Commonwealth~~ *tribe*, as that term is defined in § 2.2-6100, pursuant to §
547 10.1-104.02. The Department shall issue a permit to excavate or remove such a feature if it finds, with the
548 concurrence of the Director of the Department of Historic Resources, that it is in the best interest of the
549 Commonwealth and that the applicant meets the criteria of this section. The permit shall be issued for a
550 period of two years and may be renewed upon expiration. Such permit shall not be transferable; however, the
551 provisions of this section shall not preclude any person from working under the direct supervision of the
552 permittee.

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

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

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

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

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

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

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

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

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

570 **§ 10.1-1018. Virginia Land Conservation Board of Trustees; membership; terms; vacancies;**
 571 **compensation and expenses.**

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

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

603 C. Trustees of the Foundation shall receive no compensation for their services. All members shall be
 604 reimbursed for all reasonable and necessary expenses incurred in the performance of their duties on behalf of
 605 the Foundation as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members
 606 shall be provided by the Department of Conservation and Recreation.

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

611 E. The Board shall seek assistance in developing grant criteria and advice on grant priorities and any other
 612 appropriate issues from a task force consisting of the following agency heads or their designees: the Director
 613 of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services,
 614 the State Forester, the Director of the Department of Historic Resources, the Director of the Department of

615 Wildlife Resources and the Executive Director of the Virginia Outdoors Foundation. The Board may request
616 any other agency head to serve on or appoint a designee to serve on the task force.

617 **§ 10.1-1020. Virginia Land Conservation Fund; purposes of Foundation.**

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

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

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

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

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

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

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

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

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

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

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

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

675 F. A portion of the Fund, not to exceed 20 percent of the annual balance of unrestricted funds, may be
676 used to develop properties purchased in fee simple, or through the purchase of development rights, with the

677 assets of the Fund for public use including, but not limited to, development of trails, parking areas,
 678 infrastructure, and interpretive projects or to conduct environmental assessments or other preliminary
 679 evaluations of properties prior to the acquisition of any property interest.

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

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

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

690 **§ 10.1-1186.3:1. Policies for consultation with federally recognized tribes in the Commonwealth.**

691 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
 692 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
 693 for meaningful and appropriate written consultation with potentially impacted federally recognized ~~Tribal~~
 694 ~~Nations in the Commonwealth~~ *tribes* regarding certain major actions or permits issued by the Department.
 695 The Department shall designate an agency official to evaluate the adequacy of consultation and ensure that
 696 agency consultation practices are consistent. Actions and permits appropriate for consultation shall include
 697 the projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
 698 federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* based on tribal preferences, ensure that
 699 sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~
 700 *tribes* to fully engage in consultation regarding the proposed action, and establish procedures for the
 701 Department to provide feedback to the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes*
 702 to explain how their input was considered. Should feedback from the federally recognized ~~Tribal Nations in the~~
 703 ~~Commonwealth~~ *tribes* not be received by the deadline established in the Department's policies and
 704 procedures, the consultation provisions of this section shall be deemed fulfilled. For environmental impact
 705 reports for major state projects prepared pursuant to § 10.1-1188, the policies and procedures shall require the
 706 state project proponent to perform the required consultation.

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

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

717 **§ 10.1-1188. State agencies to submit environmental impact reports on major projects.**

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

720 For the purposes of this section, "major state project means" the acquisition of an interest in land for any
 721 state facility construction, or the construction of any facility or expansion of an existing facility that is
 722 hereafter undertaken by any state agency, board, commission, or authority or any branch of state government,
 723 including public institutions of higher education, that costs \$500,000 or more. For the purposes of this
 724 chapter, authority shall not include any industrial development authority created pursuant to the provisions of
 725 Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2 or Chapter 643, as amended, of the Acts of Assembly of 1964.
 726 Nor shall it include the Virginia Port Authority created pursuant to the provisions of § 62.1-128, unless such
 727 project is a capital project that costs in excess of \$5 million. Nor shall authority include any housing
 728 development or redevelopment authority established pursuant to state law. For the purposes of this chapter,
 729 branch of state government shall include any county, city, or town of the Commonwealth only in connection
 730 with highway construction, reconstruction, or improvement projects affecting highways or roads undertaken
 731 by the county, city, or town on projects estimated to cost more than \$2 million. For projects undertaken by
 732 any locality costing more than \$500,000 and less than \$2 million, the locality shall consult with the
 733 Department of Historic Resources to consider and make reasonable efforts to avoid or minimize impacts to
 734 historic resources if the project involves a new location or a new disturbance that extends outside the area or
 735 depth of a prior disturbance, or otherwise has the potential to affect such resources adversely.

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

- 737 1. The environmental impact of the major state project, including the impact on wildlife habitat;
- 738 2. Any adverse environmental effects that cannot be avoided if the major state project is undertaken;

- 739 3. Measures proposed to minimize the impact of the major state project;
 740 4. Any alternatives to the proposed construction;
 741 5. Any irreversible environmental changes that would be involved in the major state project; and
 742 6. If required, a record of consultation with any federally recognized ~~Tribal Nation in the Commonwealth~~
 743 *tribe* that may be impacted by the major state project in a locality identified by the Ombudsman for Tribal
 744 Consultation pursuant to subdivision B 2 of § 2.2-401.01 pursuant to § 10.1-1186.3:1. The record of
 745 consultation shall include the information provided to the federally recognized ~~Tribal Nation in the~~
 746 ~~Commonwealth~~ *tribe*, any feedback or response received by the federally recognized ~~Tribal Nation in the~~
 747 ~~Commonwealth~~ *tribe*, and a description of how the impact was considered or incorporated into the major
 748 state project. *For the purposes of this subdivision, the term "federally recognized tribe" has the same*
 749 *meaning as that term is defined in § 2.2-6100.*

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

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

761 **§ 10.1-2202.5. Virginia Black, Indigenous, and People of Color Historic Preservation Fund;**
 762 **established.**

763 A. As used in this section:

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

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

771 "Organization" means a private nonprofit organization.

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

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

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

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

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

797 F. Any ~~state-recognized or federally recognized Indian~~ *Virginia recognized* tribe, organization, or locality
 798 receiving a grant from the Fund shall grant the Board or other holder a perpetual easement pursuant to the
 799 Open-Space Land Act (§ 10.1-1700 et seq.) for the purpose of preserving real property that is important for
 800 its historical, architectural, or archaeological aspects, replacing restrictions on the use or development of the

801 land. If the easement is granted to a holder other than the Board, all terms and conditions of the easement
 802 shall be reviewed by the Department to ensure that the easement accomplishes the perpetual preservation of
 803 the property. Such other holder shall demonstrate to the Department that it has the capacity and expertise to
 804 manage and enforce the terms of the easement.

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

815 **§ 10.1-2205.1. Policies for consultation with federally recognized tribes in the Commonwealth.**

816 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
 817 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
 818 for meaningful and appropriate written consultation with federally recognized ~~Tribal Nations in the~~
 819 ~~Commonwealth~~ *tribes* regarding certain major actions or permits issued by the Department. The Department
 820 shall designate an agency official to evaluate the adequacy of consultation and ensure that agency
 821 consultation practices are consistent. Actions and permits appropriate for consultation shall include the
 822 projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
 823 federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* based on tribal preferences, ensure that
 824 sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~
 825 *tribes* to fully engage in consultation regarding developing informed opinions about the proposed action, and
 826 establish procedures for the Department to provide feedback to the federally recognized ~~Tribal Nations in the~~
 827 ~~Commonwealth~~ *tribes* to explain how their input was considered. Should feedback from the federally
 828 recognized ~~Tribal Nations in the Commonwealth~~ *tribes* not be received by the deadline established in the
 829 Department's policies and procedures, the consultation provisions of this section shall be deemed fulfilled.

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

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

836 **§ 10.1-2206.1. Procedure for designating a historic district, building, structure, or site as a historic**
 837 **landmark; National Register of Historic Places, National Historic Landmarks; historic district defined.**

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

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

863 make and maintain an appropriate record of all public hearings held pursuant to this section.

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

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

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

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

877 **§ 10.1-2214. Underwater historic property; penalty.**

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

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

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

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

909 E. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor and, in addition,
910 shall forfeit to the Commonwealth any objects recovered.

911 **§ 10.1-2305. Permit required for the archaeological excavation of human remains.**

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

915 B. Where unmarked burials are not part of a legally chartered cemetery, archaeological excavation of such
916 burials pursuant to a permit from the Director shall be exempt from the requirements of §§ 57-38.1 and
917 57-39. However, such exemption shall not apply in the case of human burials within formally chartered
918 cemeteries that have been abandoned.

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

923 D. The Board shall promulgate regulations implementing this section that provide for appropriate public
924 notice prior to issuance of a permit, provide for appropriate treatment of excavated remains, the scientific

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

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

935 F. For the purposes of this section, "cultural affiliation" has the same definition as provided in 25 U.S.C. §
 936 3001(2) of the federal Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001 et seq.)
 937 and its regulations. If doubt exists as to cultural affiliation, the federally recognized ~~Tribal Nations in the~~
 938 ~~Commonwealth~~ *tribe* with potential cultural affiliation shall make the determination.

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

941 **§ 15.2-4202. Definitions.**

942 For the purposes of this chapter:

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

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

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

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

956 **§ 15.2-4203. Organization of planning district commission.**

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

969 B. The charter agreement shall set forth:

970 1. The name of the planning district. An entity organized as a planning district commission under this act
 971 may employ the name "regional council" or "regional commission" as a substitute for the name "planning
 972 district commission."

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

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

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

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

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

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

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

997 **§ 20-88.32. Definitions.**

998 In this chapter:

999 "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a
 1000 duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order
 1001 directed to the parent.

1002 "Child support order" means a support order for a child, including a child who has attained the age of
 1003 majority under the law of the issuing state or foreign country.

1004 "Convention" means the Convention on the International Recovery of Child Support and Other Forms of
 1005 Family Maintenance, concluded at The Hague on November 23, 2007.

1006 "Duty of support" means an obligation imposed or imposable by law to provide support for a child,
 1007 spouse, or former spouse, including an unsatisfied obligation to provide support.

1008 "Employer" means the source of any income as defined in § 63.2-1900.

1009 "Foreign country" means a country, including a political subdivision thereof, other than the United States,
 1010 that authorizes the issuance of support orders and:

1011 1. That has been declared under the law of the United States to be a foreign reciprocating country;

1012 2. That has established a reciprocal arrangement for child support with the Commonwealth as provided in
 1013 § 20-88.50;

1014 3. That has enacted a law or established procedures for the issuance and enforcement of support orders
 1015 which are substantially similar to the procedures under this chapter; or

1016 4. In which the Convention is in force with respect to the United States.

1017 "Foreign support order" means a support order of a foreign tribunal.

1018 "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country
 1019 which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The
 1020 term includes a competent authority under the Convention.

1021 "Home state" means the state or foreign country in which a child lived with a parent or a person acting as
 1022 parent for at least six consecutive months immediately preceding the time of filing of a petition or
 1023 comparable pleading for support and, if a child is less than six months old, the state or foreign country in
 1024 which the child lived from birth with any of them. A period of temporary absence of any of them is counted
 1025 as part of the six-month or other period.

1026 "Income" includes earnings or other periodic entitlements to money from any source and any other
 1027 property subject to withholding for support under the law of the Commonwealth.

1028 "Income-withholding order" means an order or other legal process directed to an obligor's employer or
 1029 other debtor, to withhold support from the obligor's income as defined in § 63.2-1900.

1030 "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable
 1031 pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or
 1032 foreign country.

1033 "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a
 1034 judgment determining parentage of a child.

1035 "Issuing state" means the state in which a tribunal issues a support order or a judgment determining
 1036 parentage of a child.

1037 "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment
 1038 determining parentage of a child.

1039 "Law" includes decisional and statutory law and rules and regulations having the force of law.

1040 "Obligee" means (i) an individual to whom a duty of support is or is alleged to be owed or in whose favor
 1041 a support order or a judgment determining parentage of a child has been issued, (ii) a foreign country, state,
 1042 or political subdivision of a state to which the rights under a duty of support or support order have been
 1043 assigned or which has independent claims based on financial assistance provided to an individual obligee in
 1044 place of child support, (iii) an individual seeking a judgment determining parentage of the individual's child,
 1045 or (iv) a person that is a creditor in a proceeding under Article 13 (§ 20-88.83 et seq.).

1046 "Obligor" means an individual, or the estate of a decedent that (i) owes or is alleged to owe a duty of
 1047 support, (ii) is alleged but has not been adjudicated to be a parent of a child, (iii) is liable under a support
 1048 order, or (iv) is a debtor in a proceeding under Article 13 (§ 20-88.83 et seq.).

1049 "Outside the Commonwealth" means a location in another state, political subdivision of a state, or a
1050 country other than the United States, whether or not the country is a foreign country.

1051 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
1052 company, association, joint venture, public corporation, government or governmental subdivision, agency, or
1053 instrumentality, or any other legal or commercial entity.

1054 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
1055 other medium and is retrievable in perceivable form.

1056 "Register" means to file in a tribunal of the Commonwealth a support order or judgment determining
1057 parentage of a child issued in another state or a foreign country.

1058 "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a
1059 child is registered.

1060 "Responding state" means a state or a foreign country in which a petition or comparable pleading for
1061 support or to determine parentage of a child is filed or to which a petition or comparable pleading is
1062 forwarded for filing from another state or a foreign country.

1063 "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

1064 "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

1065 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
1066 Islands or any territory or insular possession under the jurisdiction of the United States. The term includes ~~an~~
1067 *a federally recognized American Indian nation or tribe.*

1068 "Support enforcement agency" means a public official, governmental entity, or private agency authorized
1069 to (i) seek enforcement of support orders or laws relating to the duty of support, (ii) seek establishment or
1070 modification of child support, (iii) request determination of parentage of a child, (iv) attempt to locate
1071 obligors or their assets, or (v) request determination of the controlling child support order. A support
1072 enforcement agency of the Commonwealth is not authorized to establish or enforce a support order for
1073 spousal support only.

1074 "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or
1075 subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former
1076 spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement
1077 for financial assistance provided to an individual obligee in place of child support. The term may include
1078 related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and
1079 other relief.

1080 "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce,
1081 or modify support orders or to determine parentage of a child; however, the support enforcement agency of
1082 the Commonwealth has no authority to establish or enforce a support order for spousal support only.

1083 **§ 20-146.1. Definitions.**

1084 In this act:

1085 "Child" means an individual who has not attained eighteen years of age.

1086 "Child custody determination" means a judgment, decree, or other order of a court providing for the legal
1087 custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary,
1088 initial, or modification order. The term does not include an order relating to child support or other monetary
1089 obligation of an individual.

1090 "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation
1091 with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse,
1092 dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in
1093 which the issue may appear. The term does not include a proceeding involving juvenile delinquency,
1094 contractual emancipation, or enforcement under Article 3 (§ 20-146.22 et seq.) of this chapter.

1095 "Commencement" means the filing of the first pleading in a proceeding.

1096 "Court" means a court of competent jurisdiction as determined by otherwise applicable Virginia law to
1097 establish, enforce, or modify a child custody determination or an entity authorized under the law of another
1098 state to establish, enforce or modify a child custody determination.

1099 "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least
1100 six consecutive months immediately before the commencement of a child custody proceeding. In the case of
1101 a child less than six months of age, the term means the state in which the child lived from birth with any of
1102 the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

1103 "Initial determination" means the first child custody determination concerning a particular child.

1104 "Issuing court" means the court that makes a child custody determination for which enforcement is sought
1105 under this act.

1106 "Issuing state" means the state in which a child custody determination is made.

1107 "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise
1108 made after a previous determination concerning the same child, whether or not it is made by the court that
1109 made the previous determination.

1110 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability

1111 company, association, joint venture, government, governmental subdivision, agency, or instrumentality,
1112 public corporation, or any other legal or commercial entity.

1113 "Person acting as a parent" means a person, other than a parent, who has (i) physical custody of the child
1114 or has had physical custody for a period of six consecutive months, including any temporary absence, within
1115 one year immediately before the commencement of a child custody proceeding and (ii) been awarded legal
1116 custody by a court or claims a right to legal custody under the laws of this Commonwealth.

1117 "Physical custody" means the physical care and supervision of a child.

1118 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
1119 Islands, or any territory or insular possession subject to the jurisdiction of the United States.

1120 "Tribe" means an *American* Indian tribe or band, or Alaskan Native village, which is recognized by
1121 federal law or formally acknowledged by a state.

1122 **§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program**
1123 **attendance; exemptions from article.**

1124 A. As used in this subsection, "attend" includes participation in educational programs and courses at a site
1125 remote from the school with the permission of the school and in conformity with applicable requirements.

1126 Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth
1127 having control or charge of any child who will have reached the fifth birthday on or before September 30 of
1128 any school year and who has not passed the eighteenth birthday shall, during the period of each year the
1129 public schools are in session and for the same number of days and hours per day as the public schools, cause
1130 such child to attend a public school or a private, denominational, or parochial school or have such child
1131 taught by a tutor or teacher of qualifications prescribed by the Board and approved by the division
1132 superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

1133 As prescribed in the regulations of the Board, the requirements of this section may also be satisfied by
1134 causing a child to attend an alternative program of study or work/study offered by a public, private,
1135 denominational, or parochial school or by a public or private degree-granting institution of higher education.
1136 Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the
1137 requirements of this section may be alternatively satisfied by causing the child to attend any public
1138 educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or
1139 parochial educational pre-kindergarten program.

1140 Instruction in the home of a child or children by the parent, guardian, or other person having control or
1141 charge of such child or children shall not be classified or defined as a private, denominational or parochial
1142 school.

1143 The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile
1144 Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom
1145 the division superintendent has required to take a special program of prevention, intervention, or remediation
1146 as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall
1147 not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when
1148 such person is actively pursuing the achievement of a passing score on a high school equivalency
1149 examination approved by the Board but is not enrolled in an individual student alternative education plan
1150 pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a
1151 certificate of completion, or has achieved a passing score on a high school equivalency examination approved
1152 by the Board, or who has otherwise complied with compulsory school attendance requirements as set forth in
1153 this article.

1154 B. A school board shall excuse from attendance at school:

1155 1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is
1156 conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious
1157 training or belief" does not include essentially political, sociological or philosophical views or a merely
1158 personal moral code; and

1159 2. On the recommendation of the juvenile and domestic relations district court of the county or city in
1160 which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together
1161 with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified
1162 by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety
1163 when such concern or apprehension in that pupil's specific case is determined by the court, upon
1164 consideration of the recommendation of the principal and division superintendent, to be justified.

1165 C. Each local school board shall develop policies for excusing students who are absent by reason of
1166 observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award
1167 or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or
1168 examination, for any which he missed by reason of such absence, if the absence is verified in a manner
1169 acceptable to the school board.

1170 D. A school board may excuse from attendance at school:

1171 1. On recommendation of the principal and the division superintendent and with the written consent of the
1172 parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board,

1173 cannot benefit from education at such school; or

1174 2. On recommendation of the juvenile and domestic relations district court of the county or city in which
1175 the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

1176 E. Local school boards may allow the requirements of subsection A to be met under the following
1177 conditions:

1178 For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents,
1179 and the principal or his designee of the school in which the student is enrolled in which an individual student
1180 alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which
1181 plan must include:

1182 1. Career guidance counseling;

1183 2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency
1184 examination approved by the Board or other alternative education program approved by the local school
1185 board with attendance requirements that provide for reporting of student attendance by the chief administrator
1186 of such preparatory program or approved alternative education program to such principal or his designee;

1187 3. Mandatory enrollment in a program to earn a Board-approved career and technical education credential,
1188 such as the successful completion of an industry certification, a state licensure examination, a national
1189 occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia
1190 workplace readiness skills assessment;

1191 4. Successful completion of the course in economics and personal finance required to earn a Board-
1192 approved high school diploma;

1193 5. Counseling on the economic impact of failing to complete high school; and

1194 6. Procedures for reenrollment to comply with the requirements of subsection A.

1195 A student for whom an individual student alternative education plan has been granted pursuant to this
1196 subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory
1197 school attendance law, and the division superintendent or attendance officer of the school division in which
1198 such student was last enrolled shall seek immediate compliance with the compulsory school attendance law
1199 as set forth in this article.

1200 Students enrolled with an individual student alternative education plan shall be counted in the average
1201 daily membership of the school division.

1202 F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of
1203 Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the
1204 Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or
1205 intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have
1206 resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school
1207 division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled
1208 from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection C of § 22.1-277, require the
1209 child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

1210 G. Whenever a court orders any pupil into an alternative education program, including a program
1211 preparing students for a high school equivalency examination approved by the Board, offered in the public
1212 schools, the local school board of the school division in which the program is offered shall determine the
1213 appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public
1214 schools it supervises or resides within its school division.

1215 The juvenile and domestic relations district court of the county or city in which a pupil resides or in which
1216 charges are pending against a pupil, or any court in which charges are pending against a pupil, may require
1217 the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii)
1218 a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession
1219 or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program,
1220 including, but not limited to, night school, adult education, or any other education program designed to offer
1221 instruction to students for whom the regular program of instruction may be inappropriate.

1222 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude
1223 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
1224 this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a
1225 pupil.

1226 H. Within one calendar month of the opening of school, each school board shall send to the parents or
1227 guardian of each student enrolled in the division a copy of the compulsory school attendance law and the
1228 enforcement procedures and policies established by the school board.

1229 I. The provisions of this article shall not apply to:

1230 1. Children suffering from contagious or infectious diseases while suffering from such diseases;

1231 2. Children whose immunizations against communicable diseases have not been completed as provided in
1232 § 22.1-271.2;

1233 3. Children under 10 years of age who live more than two miles from a public school unless public
1234 transportation is provided within one mile of the place where such children live;

1235 4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school
1236 unless public transportation is provided within 1.5 miles of the place where such children live; and

1237 5. Children excused pursuant to subsections B and D.

1238 Further, any child who will not have reached his sixth birthday on or before September 30 of each school
1239 year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend
1240 school until the following year because the child, in the opinion of the parent or guardian, is not mentally,
1241 physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

1242 The distances specified in subdivisions 3 and 4 shall be measured or determined from the child's residence
1243 to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such
1244 children by the nearest practical routes which are usable for walking or riding. Disease shall be established by
1245 the certificate of a reputable practicing physician in accordance with regulations adopted by the Board.

1246 J. Subject to guidelines established by the Department, any student who is absent from school due to his
1247 mental or behavioral health shall be granted an excused absence.

1248 K. Subject to guidelines established by the Department, each school board (i) shall permit one school day-
1249 long excused absence per school year for any middle school or high school student in the local school
1250 division who is absent from school to engage in a civic event and (ii) may permit additional excused absences
1251 for such students who are absent for such purpose. Local school boards may require that the student provide
1252 advance notice of the intended absence and require that the student provide documentation of participation in
1253 a civic event.

1254 L. Subject to guidelines established by the Department, any student who is a member of a ~~state-recognized~~
1255 ~~or federally recognized tribal nation that is headquartered in the Commonwealth~~ *Virginia recognized tribe, as*
1256 *that term is defined in § 2.2-6100*, and who is absent from school to attend such tribal nation's pow wow
1257 gathering shall be granted one excused absence per academic year, provided that the parent of such student
1258 provides to the student's school advance notice of such absence in the manner required by the school.

1259 **§ 24.2-128. Minority language accessibility.**

1260 A. The State Board shall designate a county, city, or town as a covered locality if it determines, in
1261 consultation with the Director of the Census, on the basis of the 2010 American Community Survey census
1262 data and subsequent American Community Survey data in five-year increments, or comparable census data,
1263 that (i) more than five percent of the citizens of voting age of such county, city, or town are members of a
1264 single language minority and are unable to speak or understand English adequately enough to participate in
1265 the electoral process; (ii) more than 10,000 of the citizens of voting age of such county, city, or town are
1266 members of a single language minority and are unable to speak or understand English adequately enough to
1267 participate in the electoral process; or (iii) in the case of a county, city, or town containing all or any part of
1268 an *American* Indian reservation, more than five percent of the *American* Indian citizens of voting age within
1269 the *American* Indian reservation are members of a single language minority and are unable to speak or
1270 understand English adequately enough to participate in the electoral process.

1271 B. Whenever a covered locality provides any voting or election materials, it shall provide such materials
1272 in the language of the applicable minority group as well as in the English language. For purposes of this
1273 requirement, "voting or election materials" means registration or voting notices, forms, instructions,
1274 assistance, voter information pamphlets, ballots, sample ballots, candidate qualification information, and
1275 notices regarding changes to local election districts, precincts, or polling places. For purposes of this
1276 requirement, "registration notices" means any notice of voter registration approval, denial, or cancellation
1277 required by the provisions of Chapter 4 (§ 24.2-400 et seq.). A covered locality may distribute such materials
1278 in the preferred language identified by the voter.

1279 C. The Attorney General, or any qualified voter who is a member of a language minority group for whom
1280 a covered locality is required to provide voting or election materials in such language, may institute a cause
1281 of action in the circuit court of the covered locality to compel the provision of the voting or election materials
1282 in the language of the applicable minority group. In such action, the court may, in its discretion, allow a
1283 private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

1284 **§ 28.2-104.01. Policies for consultation with federally recognized tribes in the Commonwealth.**

1285 A. *For the purposes of this section, the term "federally recognized tribe" has the same meaning as that*
1286 *term is defined in § 2.2-6100.*

1287 B. The Commission, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
1288 § 2.2-401.01, shall develop policies and procedures to ensure an opportunity for meaningful and appropriate
1289 written consultation with federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* regarding certain
1290 major actions or permits issued by the Commission. The Commission shall designate an agency official to
1291 evaluate the adequacy of consultation and ensure that agency consultation practices are consistent. Actions
1292 and permits appropriate for consultation shall include underwater recovery permits issued pursuant to §
1293 10.1-2214 in a locality identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2 of §
1294 2.2-401.01. The policies shall define an appropriate means of notifying federally recognized ~~Tribal Nations in~~
1295 ~~the Commonwealth~~ *tribes* based on tribal preferences, ensure that sufficient information and time is provided
1296 for the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to fully engage in consultation

1297 regarding the proposed action, and establish procedures for the Commission to provide feedback to the
 1298 federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to explain how their input was considered.
 1299 Should feedback from the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* not be received
 1300 by the deadline established in the Commission's policies and procedures, the consultation provisions of this
 1301 section shall be deemed fulfilled.

1302 **§ 28.2-302.5. Exemptions to saltwater recreational fishing license.**

1303 A. The following persons shall be exempt from the requirements of obtaining a saltwater recreational
 1304 fishing license as set forth in § 28.2-302.1:

1305 1. A person under the age of 16 or a person who has attained the age of 65.

1306 2. A person fishing from private real property that he owns or rents, the nonpaying guest of such person,
 1307 or a member of the immediate family of such person.

1308 3. A person fishing from a licensed recreational boat licensed pursuant to § 28.2-302.7.

1309 4. A person fishing from a licensed headboat, charterboat, or pier licensed pursuant to § 28.2-302 or
 1310 28.2-302.8.

1311 5. A person fishing with gear licensed by the Commission.

1312 6. The holder of a valid recreational fishing license issued by another state or jurisdiction, upon
 1313 determination of reciprocity of the license by the Commissioner.

1314 7. Members of the following groups, as determined by the Commissioner:

1315 a. Organized groups of individuals with physical or mental limitations;

1316 b. Organized groups of military veterans residing in veterans' hospitals; and

1317 c. School groups, grades kindergarten through 12, participating in school-sponsored trips.

1318 8. A permanently and totally disabled person as defined in § 58.1-3217 holding a special lifetime saltwater
 1319 recreational fishing license issued pursuant to § 28.2-302.10.

1320 9. A person holding a lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10:1.

1321 10. A person fishing from a federally owned park or reserve with boundaries extending into an adjoining
 1322 state that does not require a saltwater fishing license.

1323 11. A Virginia resident who is a member of ~~an American Indian tribe recognized by the Commonwealth~~ *a*
 1324 *Virginia recognized tribe, as that term is defined in § 2.2-6100*, and is carrying (i) an identification card or
 1325 paper signed by the chief of his tribe, (ii) a valid tribal identification card, (iii) a written confirmation through
 1326 a central tribal registry, or (iv) a certification from a tribal office, stating that the person is a member of such
 1327 tribe. Such card or other certification shall create a presumption of residence in Virginia that may be rebutted
 1328 by proof of actual residence elsewhere.

1329 B. No saltwater recreational fishing licenses shall be required on days that are designated as free fishing
 1330 days. The Commissioner shall designate no more than three free fishing days in any calendar year. This
 1331 exemption shall not apply to headboats, charterboats, or rental boats.

1332 **§ 29.1-301. Exemptions from license requirements.**

1333 A. No license shall be required of landowners, their spouses, their children and grandchildren and the
 1334 spouses of such children and grandchildren, or the landowner's parents, resident or nonresident, to hunt, trap
 1335 and fish within the boundaries of their own lands and inland waters or while within such boundaries or upon
 1336 any private permanent extension therefrom, to fish in any abutting public waters.

1337 B. No license shall be required of any stockholder owning 50 percent or more of the stock of any domestic
 1338 corporation owning land in this Commonwealth, his or her spouse and children and minor grandchildren,
 1339 resident or nonresident, to hunt, trap and fish within the boundaries of lands and inland waters owned by the
 1340 domestic corporation.

1341 C. No license shall be required of bona fide tenants, renters or lessees to hunt, trap or fish within the
 1342 boundaries of the lands or waters on which they reside or while within such boundaries or upon any private
 1343 permanent extension therefrom, to fish in any abutting public waters if such individuals have the written
 1344 consent of the landlord upon their person. A guest of the owner of a private fish pond shall not be required to
 1345 have a fishing license to fish in such pond.

1346 D. No license shall be required of resident or nonresident persons under 16 years of age to fish.

1347 D1. No license shall be required of resident persons under 12 years of age to hunt, provided such person is
 1348 accompanied and directly supervised by an adult who has, on his person, a valid Virginia hunting license as
 1349 described in subsection B of § 29.1-300.1.

1350 E. No license shall be required of a resident person 65 years of age or over to hunt or trap on private
 1351 property in the county or city in which he resides. An annual license at a fee of \$1 shall be required of a
 1352 resident person 65 years of age or older to fish in any inland waters of the Commonwealth, which shall be in
 1353 addition to a license to fish for trout as specified in subsection B of § 29.1-310 or a special lifetime trout
 1354 fishing license as specified in § 29.1-302.4. A resident 65 years of age or older may, upon proof of age
 1355 satisfactory to the Department and the payment of a \$1 fee, apply for and receive from any authorized agent
 1356 of the Department a nontransferable annual license permitting such person to hunt or an annual license
 1357 permitting such person to trap in all cities and counties of the Commonwealth. Any lifetime license issued
 1358 pursuant to this article prior to July 1, 1988, shall remain valid for the lifetime of the person to whom it was

1359 issued. Any license issued pursuant to this section includes any damage stamp required pursuant to Article 3
1360 (§ 29.1-352 et seq.) of this chapter.

1361 F. No license to fish shall be required of nonresident persons under 16 years of age when accompanied by
1362 a person possessing a valid license to fish in Virginia.

1363 G. No license shall be required to trap rabbits with box traps.

1364 H. No license shall be required of resident persons under 16 years of age to trap when accompanied by
1365 any person 18 years of age or older who possesses a valid state license to trap in this Commonwealth.

1366 I. No license to hunt, trap or fish shall be required of any ~~Indian who habitually resides on an Indian~~
1367 ~~reservation or of a member or citizen of the~~ a Virginia recognized ~~tribes~~ *tribe* who resides in the
1368 Commonwealth; however, such ~~Indian member or citizen~~ must have on his person an identification card or
1369 paper signed by the chief of his tribe, a valid tribal identification card, written confirmation through a central
1370 tribal registry, or certification from a tribal office. Such card, paper, confirmation, or certification shall set
1371 forth that the person named is ~~an actual resident upon such reservation or a member or citizen of the~~
1372 ~~recognized tribes in the Commonwealth~~ a Virginia recognized *tribe*, and such card, paper, confirmation or
1373 certification shall create a presumption of residence, which may be rebutted by proof of actual residence
1374 elsewhere. *For the purposes of this subsection, the term "Virginia recognized tribe" has the same meaning as*
1375 *that term is defined in § 2.2-6100.*

1376 J. No license to fish shall be required of legally blind persons.

1377 K. No fishing license shall be required in any inland waters of the Commonwealth on free fishing days.
1378 The Board shall designate no more than three free fishing days in any calendar year. In the event that a free
1379 day is canceled as a result of an inclement weather event, the Board may designate another free fishing day in
1380 its place.

1381 L. No license to fish, except for trout as provided in § 29.1-302.4 or subsection B of § 29.1-310, in Laurel
1382 Lake and Beaver Pond at Breaks Interstate Park shall be required of a resident of the State of Kentucky who
1383 (i) possesses a valid license to fish in Kentucky or (ii) is exempt under Kentucky law from the requirement of
1384 possessing a valid fishing license.

1385 M. No license to fish, except for trout as provided in subsection B of § 29.1-310, shall be required of a
1386 member of the armed forces of the United States, on active duty, who is a resident of the Commonwealth
1387 while such person is on official leave, provided that person presents a copy of his leave papers upon request.

1388 N. No license to hunt or fish shall be required of any person who is not hunting or fishing but is aiding a
1389 disabled person to hunt or fish when such disabled person possesses a valid Virginia hunting or fishing
1390 license under § 29.1-302, 29.1-302.1, or 29.1-302.2.

1391 **§ 29.1-401. Exemptions as to fur permits.**

1392 A. A permit shall not be required of any hunter or trapper to possess or dispose of the hides, furs or pelts
1393 of wild animals legally shot or caught by him nor of any person lawfully engaging in the business of fur
1394 farming to possess or to dispose of the hides, furs or pelts of wild animals raised by him.

1395 B. A permit shall not be required of any Virginia resident who is a member of ~~an American Indian tribe~~
1396 ~~recognized by the Commonwealth or a member of a federally recognized American Indian~~ a Virginia
1397 *recognized* tribe, *as that term is defined in § 2.2-6100*, to buy and possess the hides, furs, pelts or skeletal
1398 parts of legally obtained wild animals, except bear as prohibited in § 29.1-536, when such items are to be
1399 used as part of traditional American Indian religious practices. Resale of items obtained under this section is
1400 prohibited.

1401 C. The Board may adopt regulations providing further exemptions to the permit requirement.

1402 **§ 29.1-521. Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as**
1403 **permitted; exception; penalty.**

1404 A. The following is unlawful:

1405 1. To hunt or kill on Sunday (i) any wild bird or wild animal, including any nuisance species, with a gun,
1406 firearm, or other weapon, within 200 yards of a place of worship or any accessory structure thereof or (ii) any
1407 deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs.

1408 2. To destroy or harass the nest, eggs, dens, or young of any wild bird or wild animal, except nuisance
1409 species, at any time without a permit as required by law.

1410 3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily
1411 bag or season limit during such day or season. However, any properly licensed person, or a person exempt
1412 from having to obtain a license, who has obtained such daily bag or season limit while hunting may assist
1413 others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives if the
1414 weapon in his possession is an unloaded firearm, a bow without a nocked arrow, an unloaded slingbow, an
1415 unloaded arrowgun, or an unloaded crossbow. Any properly licensed person, or person exempt from having
1416 to obtain a license, who has obtained such season limit prior to commencement of the hunt may assist others
1417 who are hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he
1418 does not have a firearm, bow, slingbow, arrowgun, or crossbow in his possession.

1419 4. To knowingly occupy any baited blind or other baited place for the purpose of taking or attempting to
1420 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

1421 taking or killing it. There shall be a rebuttable presumption that a person charged with violating this
 1422 subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or
 1423 attempting to take any wild bird or wild animal. However, this shall not apply to baiting nuisance species of
 1424 animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully
 1425 trapped.

1426 5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in
 1427 progress.

1428 6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except (i)
 1429 as provided in § 29.1-521.3 or (ii) for the killing of nuisance species as defined in § 29.1-100 on private
 1430 property by the owner of such property or his designee from a stationary automobile or other stationary
 1431 vehicle.

1432 7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name
 1433 and address of the trapper; or (ii) an identification number issued by the Department.

1434 8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

1435 9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the
 1436 landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may
 1437 authorize employees of federal, state, and local government agencies, and persons holding a valid
 1438 Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that are
 1439 completely submerged at least once every 72 hours, and the Board may adopt regulations permitting trappers
 1440 to visit traps less frequently under specified conditions. The Board shall adopt regulations permitting trappers
 1441 to use remote trap-checking technology to check traps under specified conditions.

1442 10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for transportation,
 1443 transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at
 1444 any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as
 1445 specifically permitted by law and only by the manner or means and within the numbers stated. However, the
 1446 provisions of this section shall not be construed to prohibit the (i) use or transportation of legally taken turkey
 1447 carcasses, or portions thereof, for the purposes of making or selling turkey callers; (ii) the manufacture or sale
 1448 of implements, including tools or utensils made from legally harvested deer skeletal parts, including antlers;
 1449 (iii) the possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements
 1450 authorized by regulations adopted by the Board.

1451 11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or
 1452 wild animal or the carcass or any part thereof, except as specifically permitted by law, including subsection D
 1453 of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal
 1454 Revenue Code that is (i) organized to provide wild game as food to the hungry and (ii) authorized by the
 1455 Department to possess, transport, and distribute donated or unclaimed meat to the hungry may pay a
 1456 processing fee in order to obtain such meat. Such fee shall not exceed the actual cost for processing the meat.
 1457 In addition, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code
 1458 that is (a) organized to support wildlife habitat conservation and (b) approved by the Department shall be
 1459 allowed to offer wildlife mounts that have undergone the taxidermy process for sale in conjunction with
 1460 fundraising activities. A violation of this subdivision shall be punishable as provided in § 29.1-553.

1461 12. To offer for sale, sell, offer to purchase, or purchase a hunt guaranteeing the killing of a deer, bear, or
 1462 wild turkey. Nothing in this subdivision shall prevent a landowner from leasing land for hunting. A violation
 1463 of this subdivision shall be punishable as provided in § 29.1-553.

1464 B. Notwithstanding any other provision of this article, any American Indian who produces verification
 1465 that he is an enrolled member of a *Virginia recognized tribe, as that term is defined in § 2.2-6100, or other*
 1466 *tribe recognized by the Commonwealth, another U.S. state, or the U.S. federal government*, may possess,
 1467 offer for sale, or sell to another American Indian, or offer to purchase or purchase from another American
 1468 Indian, parts of legally obtained fur-bearing animals, nonmigratory game birds, and game animals, except
 1469 bear. Such legally obtained parts shall include antlers, hooves, feathers, claws, and bones.

1470 "Verification" as used in this section shall include (i) display of a valid tribal identification card, (ii)
 1471 confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv) certification
 1472 from a tribal office that the person is an enrolled member of the tribe.

1473 C. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake
 1474 exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of
 1475 snakes resulting from the use of such devices.

1476 D. A violation of subdivisions A 1 through 10 shall be punishable as a Class 3 misdemeanor.

1477 **§ 32.1-272. Certified copies of vital records; other copies.**

1478 A. In accordance with § 32.1-271 and the regulations adopted pursuant thereto, the State Registrar or a
 1479 district health department shall, upon receipt of a written request, issue a certified copy of any vital record in
 1480 the custody of the State Registrar or of a part thereof.

1481 The Commissioner of the Department of Motor Vehicles shall be authorized to issue a certified copy of a
 1482 birth, death, marriage, or divorce vital record, or a part thereof, in the custody of the State Registrar.

1483 Such vital records in the State Registrar's custody may be in the form of originals, photoprocessed
1484 reproductions or data filed by electronic means.

1485 Each copy issued shall show the date of registration. Any copy issued from a record marked "delayed" or
1486 "amended," except a record amended pursuant to subsection F of this section or subsection E of § 32.1-269,
1487 shall be similarly marked and show the effective date.

1488 Certified copies may be issued by county and city registrars only while the original record is in their
1489 possession, except that at the option of the county or city registrar true and complete copies of death
1490 certificates may be retained and certified copies of such records may be issued by the county or city registrar.

1491 B. A certified copy of a vital record or any part thereof issued in accordance with subsection A shall be
1492 considered for all purposes the same as the original and shall be prima facie evidence of the facts therein
1493 stated, provided that the evidentiary value of a vital record filed more than one year after the event or a vital
1494 record which has been amended shall be determined by the judicial or administrative body or official before
1495 whom the certificate is offered as evidence.

1496 C. The federal agency responsible for national vital statistics may be furnished such copies or other data
1497 from the system of vital records as it may require for national statistics if such federal agency shares in the
1498 cost of collecting, processing and transmitting such data. Such data may be used for research and medical
1499 investigations of public health importance. No other use of such data shall be made by the federal agency
1500 unless authorized by the State Registrar.

1501 D. Other federal, state and local, public or private agencies or persons in the conduct of their official
1502 duties may, upon request and payment of a reasonable fee, be furnished copies or other data from the system
1503 of vital records for statistical or administrative purposes upon such terms or conditions as may be prescribed
1504 by the Board. Such copies or other data shall not be used for purposes other than those for which they were
1505 requested unless so authorized by the State Registrar.

1506 In promulgating regulations relating to the terms or conditions for public or private agencies or persons
1507 obtaining copies of death certificates in the conduct of their official duties, the Board shall include within its
1508 definition of "legal representative" (i) any attorney licensed to practice law in Virginia, upon presentation of
1509 his bar number and evidence of need to obtain such copy; and (ii) any funeral director or funeral service
1510 licensee licensed to practice by the Board of Funeral Directors and Embalmers, upon presentation of evidence
1511 to so practice and evidence of being in charge of final disposition of the registrant's dead human remains or
1512 cremains or evidence of need to obtain such copy.

1513 E. No person shall prepare or issue any certificate which purports to be an original or certified copy of a
1514 vital record except as authorized in this chapter or regulations adopted hereunder.

1515 F. Certified copies of birth records filed before July 1, 1960, containing statements of racial designation
1516 on the reverse thereof shall be issued without such statement as a part of the certification; nor for this purpose
1517 solely shall such certification be marked "amended."

1518 Any American Indian or ~~Native American~~ whose certified copy of a birth record filed before July 1, 1960,
1519 contains a racial designation that is incorrect may obtain, without paying a fee, one certified copy of his birth
1520 record from which such incorrect racial designation has been removed. Such certification shall not be marked
1521 "amended" solely for this reason.

1522 G. With the increased fees to be charged for vital records and the additional deposits to the Vital Statistics
1523 Automation Fund, the Board of Health shall establish, within the district health departments, a statewide
1524 system for decentralizing certification of vital records, when such records are prepared or issued from data in
1525 the custody of the State Registrar and the Board of Health. Such system shall include the Department of
1526 Motor Vehicles pursuant to the authorization in subsection A.

1527 **§ 36-105.5. Enforcement of Building Code on American Indian reservations.**

1528 A. Recognizing the unique relationship between the Commonwealth and certain ~~of its state-recognized~~
1529 ~~Indian~~ *Virginia recognized* tribes, and notwithstanding any other provision of law, neither the
1530 Commonwealth nor any locality therein is responsible for the enforcement of the provisions of the Uniform
1531 Statewide Building Code (§ 36-97 et seq.) on any ~~Indian~~ reservation *of a Virginia recognized by the*
1532 ~~Commonwealth~~ *tribe* whereupon a ~~state-recognized Indian~~ *Virginia recognized* tribe has, by duly enacted
1533 tribal ordinance, adopted the Uniform Statewide Building Code and (i) assumed sole responsibility for
1534 existing buildings and new construction on the reservation and (ii) for purposes of enforcing the ordinance,
1535 retained firms or individuals to function as the building official on such reservation.

1536 B. Nothing in this section shall be construed to confer or infer responsibility or liability on any party for
1537 any action undertaken prior to July 1, 2015.

1538 C. *For the purposes of this section, the term "Virginia recognized tribe" has the same meaning as that*
1539 *term is defined in § 2.2-6100.*

1540 **§ 51.1-700. Definitions.**

1541 As used in this chapter, unless the context requires a different meaning:

1542 "Agreement" means the federal-state agreement between the federal agency and the Commonwealth
1543 entered into on February 16, 1952, as authorized by this chapter, for the purpose of extending coverage under
1544 the Social Security Act and any subsequent modifications thereto.

1545 "Applicable federal law" refers to provisions of federal law, including federal regulations and
 1546 requirements issued pursuant thereto, that provide for extending the benefits of the Social Security Act and
 1547 the Federal Insurance Contributions Act to employees of states and their political subdivisions.

1548 "Board" means the Board of Trustees of the Virginia Retirement System.

1549 "Employee tax" means the tax imposed by § 3101 of the Internal Revenue Code of 1986, as amended.

1550 "Employer" means the Commonwealth or a political subdivision thereof, as defined in this chapter.

1551 "Employment" means employment as defined in the Social Security Act as modified under the terms of
 1552 the agreement and pursuant to the authority granted the state social security administrator under § 51.1-707.

1553 "Federal agency" means the federal officer, department, or agency charged on behalf of the federal
 1554 government with the particular federal functions referred to in this chapter in connection with such term.

1555 "Federal Insurance Contributions Act" means subchapters A and B of Chapter 21 of the Internal Revenue
 1556 Code of 1986, as amended.

1557 "Local employee" means any officer or employee of a political subdivision and includes "special
 1558 employees," which means a county or city treasurer, commissioner of revenue, attorney for the
 1559 Commonwealth, clerk of court, sheriff, and a deputy or employee of any such officer.

1560 "Modification" means an amendment to the original agreement to modify coverage for coverage groups or
 1561 to extend coverage to additional coverage groups consistent with the provisions of Section 218 of the Social
 1562 Security Act and this chapter.

1563 "Plan of agreement" means an agreement between the state social security administrator and an employer
 1564 for the purpose of extending the benefits of the Social Security Act to coverage groups within its employ.

1565 "Political subdivision" includes an instrumentality of the Commonwealth or one or more of its political
 1566 subdivisions, or of the Commonwealth and one or more of its political subdivisions, but only if such
 1567 instrumentality is a juristic entity which is legally separate and distinct from the Commonwealth or a political
 1568 subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the
 1569 Commonwealth or a political subdivision. "Political subdivision" includes ~~Indian~~ *Virginia recognized tribes*
 1570 *as that term is defined in § 2.2-6100.*

1571 "Social Security Act" means the act of Congress approved August 14, 1935, Chapter 531, 49 Statutes 620,
 1572 officially cited as the "Social Security Act," as such act has been and may be amended.

1573 "State employee" means any person who is employed in the service of the Commonwealth but shall not
 1574 include any member of the General Assembly or local employee.

1575 "State social security administrator" means the Director of the Virginia Retirement System.

1576 "Teacher" means any person who is regularly employed on a salaried basis as a professional or clerical
 1577 employee of a county, city, or other local public school board.

1578 "Wages" means all remuneration for employment, including the cash value of all remuneration paid in any
 1579 medium other than cash, except that part of such remuneration which, even if it were paid for "employment"
 1580 within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the
 1581 meaning of that act.

1582 **§ 56-46.1. Commission to consider environmental, economic, and improvements in service**
 1583 **reliability factors in approving construction of electrical utility facilities; approval required for**
 1584 **construction of certain electrical transmission lines; notice and hearings.**

1585 A. Whenever the Commission is required to approve the construction of any electrical utility facility, it
 1586 shall give consideration to the effect of that facility on the environment and establish such conditions as may
 1587 be desirable or necessary to minimize adverse environmental impact. In order to avoid duplication of
 1588 governmental activities, any valid permit or approval required for an electric generating plant and associated
 1589 facilities issued or granted by a federal, state, or local governmental entity charged by law with responsibility
 1590 for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental
 1591 impact or for other specific public interest issues such as building codes, transportation plans, and public
 1592 safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be
 1593 deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the
 1594 permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in
 1595 issuing such permit or approval, and the Commission shall impose no additional conditions with respect to
 1596 such matters. Nothing in this section shall affect the ability of the Commission to keep the record of a case
 1597 open. Nothing in this section shall affect any right to appeal such permits or approvals in accordance with
 1598 applicable law. In the case of a proposed facility located in a region that was designated as of July 1, 2001, as
 1599 serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the
 1600 Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of
 1601 any environmental permit or approval. In every proceeding under this subsection, the Commission shall
 1602 receive and give consideration to all reports that relate to the proposed facility by state agencies concerned
 1603 with environmental protection; and if requested by any county or municipality in which the facility is
 1604 proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223
 1605 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (a) shall consider the effect of the
 1606 proposed facility on economic development within the Commonwealth, including but not limited to

1607 furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth
 1608 in § 45.2-1706.1, and (b) shall consider any improvements in service reliability that may result from the
 1609 construction of such facility.

1610 B. Subject to the provisions of subsection J, no electrical transmission line of 138 kilovolts or more shall
 1611 be constructed unless the State Corporation Commission shall, after at least 30 days' advance notice by (i)
 1612 publication in a newspaper or newspapers of general circulation in the counties and municipalities through
 1613 which the line is proposed to be built, (ii) written notice to the governing body of each such county and
 1614 municipality, and (iii) causing to be sent a copy of the notice by first class mail to all owners of property
 1615 within the route of the proposed line, as indicated on the map or sketch of the route filed with the
 1616 Commission, which requirement shall be satisfied by mailing the notice to such persons at such addresses as
 1617 are indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer of
 1618 the county or municipality, approve such line. Such notices shall include a written description of the proposed
 1619 route the line is to follow, as well as a map or sketch of the route including a digital geographic information
 1620 system (GIS) map provided by the public utility showing the location of the proposed route. The Commission
 1621 shall make GIS maps provided under this subsection available to the public on the Commission's website.
 1622 Such notices shall be in addition to the advance notice to the chief administrative officer of the county or
 1623 municipality required pursuant to § 15.2-2202.

1624 As a condition to approval the Commission shall determine that the line is needed and that the corridor or
 1625 route chosen for the line will avoid or reasonably minimize adverse impact to the greatest extent reasonably
 1626 practicable on the scenic assets, historic and cultural resources recorded with the Department of Historic
 1627 Resources, cultural resources identified by federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes*,
 1628 and environment of the area concerned. To assist the Commission in this determination, as part of the
 1629 application for Commission approval of the line, the applicant shall summarize its efforts to avoid or
 1630 reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic
 1631 resources recorded with the Department of Historic Resources, and environment of the area concerned. In
 1632 making the determinations about need, corridor or route, and method of installation, the Commission shall
 1633 verify the applicant's load flow modeling, contingency analyses, and reliability needs presented to justify the
 1634 new line and its proposed method of installation. If the local comprehensive plan of an affected county or
 1635 municipality designates corridors or routes for electric transmission lines and the line is proposed to be
 1636 constructed outside such corridors or routes, in any hearing the county or municipality may provide adequate
 1637 evidence that the existing planned corridors or routes designated in the plan can adequately serve the needs of
 1638 the company. Additionally, the Commission shall consider, upon the request of the governing body of any
 1639 county or municipality in which the line is proposed to be constructed, (a) the costs and economic benefits
 1640 likely to result from requiring the underground placement of the line and (b) any potential impediments to
 1641 timely construction of the line.

1642 C. If, prior to such approval, any interested party shall request a public hearing, the Commission shall, as
 1643 soon as reasonably practicable after such request, hold such hearing or hearings at such place as may be
 1644 designated by the Commission. In any hearing, the public service company shall provide adequate evidence
 1645 that existing rights-of-way cannot adequately serve the needs of the company.

1646 If, prior to such approval, written requests therefor are received from the governing body of any county or
 1647 municipality through which the line is proposed to be built or from 20 or more interested parties, the
 1648 Commission shall hold at least one hearing in the area that would be affected by construction of the line, for
 1649 the purpose of receiving public comment on the proposal. If any hearing is to be held in the area affected, the
 1650 Commission shall direct that a copy of the transcripts of any previous hearings held in the case be made
 1651 available for public inspection at a convenient location in the area for a reasonable time before such local
 1652 hearing.

1653 D. As used in this section, unless the context requires a different meaning:

1654 "Environment" or "environmental" shall be deemed to include in meaning "historic," as well as a
 1655 consideration of the probable effects of the line on the health and safety of the persons in the area concerned.

1656 "*Federally recognized tribe*" has the same meaning as that term is defined in § 2.2-6100.

1657 "Interested parties" includes the governing bodies of any counties or municipalities through which the line
 1658 is proposed to be built and persons residing or owning property in each such county or municipality.

1659 "Public utility" means a public utility as defined in § 56-265.1.

1660 "Qualifying facilities" means a cogeneration or small power production facility that meets the criteria of
 1661 18 C.F.R. Part 292.

1662 "Reasonably accommodate requests to wheel or transmit power" means:

1663 1. That the applicant will make available to new electric generation facilities constructed after January 9,
 1664 1991, qualifying facilities and other nonutilities, a minimum of one-fourth of the total megawatts of the
 1665 additional transmission capacity created by the proposed line, for the purpose of wheeling to public utility
 1666 purchasers the power generated by such qualifying facilities and other nonutility facilities which are awarded
 1667 a power purchase contract by a public utility purchaser in compliance with applicable state law or regulations
 1668 governing bidding or capacity acquisition programs for the purchase of electric capacity from nonutility

1669 sources, provided that the obligation of the applicant will extend only to those requests for wheeling service
 1670 made within the 12 months following certification by the State Corporation Commission of the transmission
 1671 line and with effective dates for commencement of such service within the 12 months following completion
 1672 of the transmission line; and

1673 2. That the wheeling service offered by the applicant, pursuant to subdivision 1, will reasonably further
 1674 the purposes of the Public Utilities Regulatory Policies Act of 1978 (P. L. 95-617), as demonstrated by
 1675 submitting to the Commission, with its application for approval of the line, the cost methodologies, terms,
 1676 conditions, and dispatch and interconnection requirements the applicant intends, subject to any applicable
 1677 requirements of the Federal Energy Regulatory Commission, to include in its agreements for such wheeling
 1678 service.

1679 E. In the event that, at any time after the giving of the notice required in subsection B, it appears to the
 1680 Commission that consideration of a route or routes significantly different from the route described in the
 1681 notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed
 1682 in accordance with subsection B. The Commission shall thereafter comply with the provisions of this section
 1683 with respect to the new route or routes to the full extent necessary to give affected localities, federally
 1684 recognized ~~Tribal Nations in the Commonwealth~~ *tribes*, and interested parties in the newly affected areas the
 1685 same protection afforded to affected localities and interested parties affected by the route described in the
 1686 original notice.

1687 F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the requirements of §
 1688 15.2-2232 and local zoning ordinances with respect to such transmission line.

1689 G. The Commission shall enter into a memorandum of agreement with the Department of Environmental
 1690 Quality regarding the coordination of their reviews of the environmental impact of electric generating plants
 1691 and associated facilities. If the proposed plants or associated facilities are in a locality identified by the
 1692 Ombudsman for Tribal Consultation pursuant to subdivision B 2 of § 2.2-401.01, such consultation
 1693 information shall be included in the memorandum of agreement.

1694 H. An applicant that is required to obtain (i) a certificate of public convenience and necessity from the
 1695 Commission for any electric generating facility, electric transmission line, natural or manufactured gas
 1696 transmission line as defined in 49 C.F.R. § 192.3, or natural or manufactured gas storage facility (hereafter,
 1697 an energy facility) and (ii) an environmental permit for the energy facility that is subject to issuance by any
 1698 agency or board within the Secretariat of Natural and Historic Resources, may request a pre-application
 1699 planning and review process. In any such request to the Commission or the Secretariat of Natural and
 1700 Historic Resources, the applicant shall identify the proposed energy facility for which it requests the
 1701 pre-application planning and review process. The Commission, the Department of Environmental Quality, the
 1702 Marine Resources Commission, the Department of Wildlife Resources, the Department of Historic
 1703 Resources, the Department of Conservation and Recreation, and other appropriate agencies of the
 1704 Commonwealth shall participate in the pre-application planning and review process. Participation in such
 1705 process shall not limit the authority otherwise provided by law to the Commission or other agencies or boards
 1706 of the Commonwealth. The Commission and other participating agencies and boards of the Commonwealth
 1707 may invite federal and local governmental entities charged by law with responsibility for issuing permits or
 1708 approvals and potentially impacted federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to
 1709 participate in the pre-application planning and review process. Through the pre-application planning and
 1710 review process, the applicant, the Commission, participating agencies and boards of the Commonwealth, and
 1711 potentially impacted federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* shall identify the
 1712 potential impacts and approvals that may be required and shall develop a plan that will provide for an
 1713 efficient and coordinated review of the proposed energy facility. The plan shall include (a) a list of the
 1714 permits or other approvals likely to be required based on the information available, (b) a specific plan and
 1715 preliminary schedule for the different reviews, (c) a plan for coordinating those reviews and the related public
 1716 comment process, and (d) designation of points of contact, either within each agency or for the
 1717 Commonwealth as a whole, to facilitate this coordination. The plan shall be made readily available to the
 1718 public and shall be maintained on a dedicated website to provide current information on the status of each
 1719 component of the plan and each approval process including opportunities for public comment.

1720 I. The provisions of this section shall not apply to the construction and operation of a small renewable
 1721 energy project, as defined in § 10.1-1197.5, by a utility regulated pursuant to this title for which the
 1722 Department of Environmental Quality has issued a permit by rule pursuant to Article 5 (§ 10.1-1197.5 et seq.)
 1723 of Chapter 11.1 of Title 10.1.

1724 J. Approval under this section shall not be required for any transmission line for which a certificate of
 1725 public convenience and necessity is not required pursuant to subdivision A of § 56-265.2.

1726 **§ 56-576. Definitions.**

1727 As used in this chapter:

1728 "Affiliate" means any person that controls, is controlled by, or is under common control with an electric
 1729 utility.

1730 "Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases,

1731 electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on
 1732 behalf of, two or more retail customers not controlled by or under common control with such person. The
 1733 following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i)
 1734 furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational,
 1735 informational, or analytical services to two or more retail customers, unless direct or indirect compensation
 1736 for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational,
 1737 informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service
 1738 under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587,
 1739 which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common
 1740 with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of
 1741 electric energy for consumption by such retail customers.

1742 "Business park" means a land development containing a minimum of 100 contiguous acres classified as a
 1743 Tier 4 site under the Virginia Economic Development Partnership's Business Ready Sites Program that is
 1744 developed and constructed by a locality, an industrial development authority, or a similar political
 1745 subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly, in
 1746 order to promote business development.

1747 "Combined heat and power" means a method of using waste heat from electrical generation to offset
 1748 traditional processes, space heating, air conditioning, or refrigeration.

1749 "Commission" means the State Corporation Commission.

1750 "Community in which a majority of the population are people of color" means a U.S. Census tract where
 1751 more than 50 percent of the population comprises individuals who identify as belonging to one or more of the
 1752 following groups: Black, African American, Asian, Pacific Islander, Native American *Indian*, other
 1753 non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

1754 "Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

1755 "Covered entity" means a provider in the Commonwealth of an electric service not subject to competition
 1756 but does not include default service providers.

1757 "Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving
 1758 stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

1759 "Curtailement" means inducing retail customers to reduce load during times of peak demand so as to ease
 1760 the burden on the electrical grid.

1761 "Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric
 1762 energy from any supplier licensed and seeking to sell electric energy to that customer.

1763 "Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to
 1764 times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion
 1765 and higher prices in the electrical grid.

1766 "Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy
 1767 through a retail distribution system to a retail customer.

1768 "Distributor" means a person owning, controlling, or operating a retail distribution system to provide
 1769 electric energy directly to retail customers.

1770 "Electric distribution grid transformation project" means a project associated with electric distribution
 1771 infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate the
 1772 integration of utility-owned or customer-owned renewable electric generation resources with the utility's
 1773 electric distribution grid or to otherwise enhance electric distribution grid reliability, electric distribution grid
 1774 security, customer service, or energy efficiency and conservation, including advanced metering infrastructure;
 1775 intelligent grid devices for real time system and asset information; automated control systems for electric
 1776 distribution circuits and substations; communications networks for service meters; intelligent grid devices
 1777 and other distribution equipment; distribution system hardening projects for circuits, other than the
 1778 conversion of overhead tap lines to underground service, and substations designed to reduce service outages
 1779 or service restoration times; physical security measures at key distribution substations; cyber security
 1780 measures; energy storage systems and microgrids that support circuit-level grid stability, power quality,
 1781 reliability, or resiliency or provide temporary backup energy supply; electrical facilities and infrastructure
 1782 necessary to support electric vehicle charging systems; LED street light conversions; and new customer
 1783 information platforms designed to provide improved customer access, greater service options, and expanded
 1784 access to energy usage information.

1785 "Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail
 1786 customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or
 1787 electric utility owned or operated by a municipality.

1788 "Electrification" means measures that (i) electrify space heating, water heating, cooling, drying, cooking,
 1789 industrial processes, and other building and industrial end uses that would otherwise be served by onsite,
 1790 nonelectric fuels, provided that the electrification measures reduce site energy consumption; (ii) to the
 1791 maximum extent practical, seek to combine with federally authorized customer rebates for heat pump
 1792 technology; and (iii) for those measures that provide measurable and verifiable energy savings to low-income

1793 customers or elderly customers, to the maximum extent practical, seek to combine with either
1794 contemporaneously installed measures or previously installed measures that are or were provided under
1795 federally funded weatherization programs or state-provided, locality-provided, or utility-provided energy
1796 efficiency programs.

1797 "Energy efficiency program" means a program that reduces the total amount of energy that is required for
1798 the same process or activity implemented after the expiration of capped rates but does not include
1799 electrification of any process or activity primarily fueled by natural gas. Energy efficiency programs include
1800 equipment, physical, or program change designed to produce measured and verified reductions in the amount
1801 of site energy required to perform the same function and produce the same or a similar outcome. Energy
1802 efficiency programs may include (i) electrification; (ii) programs that result in improvements in lighting
1803 design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and
1804 commercial processes; (iii) measures, such as the installation of advanced meters, implemented or installed
1805 by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in
1806 generation, transmission, and distribution systems; and (iv) customer engagement programs that result in
1807 measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency
1808 programs include demand response, combined heat and power and waste heat recovery, curtailment, or other
1809 programs that are designed to reduce site energy consumption so long as they reduce the total amount of site
1810 energy that is required for the same process or activity. Utilities shall be authorized to install and operate such
1811 advanced metering technology and equipment on a customer's premises; however, nothing in this chapter
1812 establishes a requirement that an energy efficiency program be implemented on a customer's premises and be
1813 connected to a customer's wiring on the customer's side of the inter-connection without the customer's
1814 expressed consent. Electricity consumption increases that result from Commission-approved electrification
1815 measures shall not be considered as a reduction in energy savings under the energy savings requirements set
1816 forth in subsection B of § 56-596.2. Utilities may apply verified total site energy reductions that are
1817 attributable to Commission-approved electrification measures to the energy savings requirements set forth in
1818 subsection B of § 56-596.2, subject to a conversion of British thermal unit-based energy savings to an
1819 equivalent kilowatt-hour-based energy savings, which conversion shall be subject to Commission approval.

1820 "Generate," "generating," or "generation of" electric energy means the production of electric energy.

1821 "Generator" means a person owning, controlling, or operating a facility that produces electric energy for
1822 sale.

1823 "Geothermal heating and cooling system" means a system that:

1824 1. Exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy
1825 through an electric geothermal heat pump or a system of electric geothermal heat pumps interconnected with
1826 any geothermal extraction facility that is (i) a closed loop or a series of closed loop systems in which fluid is
1827 permanently confined within a pipe or tubing and does not come in contact with the outside environment or
1828 (ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner
1829 directly into the facility and returned to the same aquifer or surface water source;

1830 2. Meets or exceeds the current federal Energy Star product specification standards;

1831 3. Replaces or displaces less efficient space or water heating systems, regardless of fuel type;

1832 4. Replaces or displaces less efficient space cooling systems that do not meet federal Energy Star product
1833 specification standards; and

1834 5. Does not feed electricity back to the grid.

1835 "Historically economically disadvantaged community" means (i) a community in which a majority of the
1836 population are people of color or (ii) a low-income geographic area.

1837 "Incremental annual savings" means the total combined kilowatt-hour savings achieved by electric utility
1838 energy efficiency and demand response programs and measures in the program year in which they are
1839 installed.

1840 "Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999,
1841 supplied electric energy to retail customers located in an exclusive service territory established by the
1842 Commission.

1843 "Independent system operator" means a person that may receive or has received, by transfer pursuant to
1844 this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission
1845 systems in the Commonwealth.

1846 "In the public interest," for purposes of assessing energy efficiency programs prior to the 2029 program
1847 year, describes an energy efficiency program if the Commission determines that the net present value of the
1848 benefits exceeds the net present value of the costs as determined by not less than any three of the following
1849 four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program
1850 Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such
1851 determination shall include an analysis of all four tests, and a program or portfolio of programs shall be
1852 approved if the net present value of the benefits exceeds the net present value of the costs as determined by
1853 not less than any three of the four tests. For programs proposed for the 2029 program year and all subsequent
1854 years, the Commission shall establish targets pursuant to subdivision B 4 of § 56-596.2, and a program shall

1855 be approved if the Commission determines it is cost-effective pursuant to applicable Commission regulations
 1856 and that the net present value of the benefits exceeds the net present value of the costs as determined by the
 1857 Total Resource Cost Test. If the Commission determines that an energy efficiency program or portfolio of
 1858 programs is not in the public interest, its final order shall include all work product and analysis conducted by
 1859 the Commission's staff in relation to that program, including testimony relied upon by the Commission's staff,
 1860 that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a
 1861 program or portfolio of programs, its final order shall include an analysis of the impact such budget reduction
 1862 has upon the cost-effectiveness of such program or portfolio of programs. An order by the Commission (a)
 1863 finding that a program or portfolio of programs is not in the public interest or (b) reducing the proposed
 1864 budget for any program or portfolio of programs shall adhere to existing protocols for extraordinarily
 1865 sensitive information. In addition, an energy efficiency program may be deemed to be "in the public interest"
 1866 if the program (1) provides measurable and verifiable energy savings to low-income customers or elderly
 1867 customers or (2) is a pilot program of limited scope, cost, and duration, that is intended to determine whether
 1868 a new or substantially revised program or technology would be cost-effective.

1869 "Low-income geographic area" means any locality, or community within a locality, that has a median
 1870 household income that is not greater than 80 percent of the local median household income, or any area in the
 1871 Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his
 1872 delegation of authority to the Internal Revenue Service.

1873 "Low-income utility customer" means any person or household whose income is no more than 80 percent
 1874 of the median income of the locality in which the customer resides. The median income of the locality is
 1875 determined by the U.S. Department of Housing and Urban Development.

1876 "Measured and verified" means a process determined pursuant to methods accepted for use by utilities and
 1877 industries to measure, verify, and validate energy savings and peak demand savings. This may include the
 1878 protocol established by the United States Department of Energy, Office of Federal Energy Management
 1879 Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and
 1880 verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning
 1881 Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific
 1882 energy efficiency measures, as determined by the Commission.

1883 "Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

1884 "New underground facilities" means facilities to provide underground distribution service. "New
 1885 underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted
 1886 devices, connections at customer meters, and transition terminations from existing overhead distribution
 1887 sources.

1888 "Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods
 1889 to times of lower demand by inducing retail customers to curtail electricity usage during periods of
 1890 congestion and higher prices in the electrical grid.

1891 "Percentage of Income Payment Program (PIPP) eligible utility customer" means any person or household
 1892 whose income does not exceed 150 percent of the federal poverty level.

1893 "Person" means any individual, corporation, partnership, association, company, business, trust, joint
 1894 venture, or other private legal entity, and the Commonwealth or any municipality.

1895 "Previously developed project site" means any property, including related buffer areas, if any, that has
 1896 been previously disturbed or developed for non-single-family residential, non-agricultural, or non-
 1897 silvicultural use, regardless of whether such property currently is being used for any purpose.

1898 "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has
 1899 been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of
 1900 a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place
 1901 before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department
 1902 of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

1903 "Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that does
 1904 not have, as its primary purpose, the production of electricity and (ii) a pressure drop in any gas for an
 1905 industrial or commercial process.

1906 "Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or
 1907 otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal
 1908 solid waste, wave motion, tides, geothermal heating and cooling systems, and geothermal power and does not
 1909 include energy derived from coal, oil, natural gas, or nuclear power. "Renewable energy" also includes the
 1910 proportion of the thermal or electric energy from a facility that results from the co-firing of biomass.
 1911 "Renewable energy" does not include waste heat from fossil-fired facilities or electricity generated from
 1912 pumped storage but includes run-of-river generation from a combined pumped-storage and run-of-river
 1913 facility.

1914 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat
 1915 and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b)
 1916 located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power

1917 generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and
 1918 Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and
 1919 improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for
 1920 residential, commercial, institutional, or industrial purposes.

1921 "Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable
 1922 thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the
 1923 renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial
 1924 process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

1925 "Renovated and improved facility" means a facility the components of which have been upgraded to
 1926 enhance its operating efficiency.

1927 "Retail customer" means any person that purchases retail electric energy for its own consumption at one
 1928 or more metering points or nonmetered points of delivery located in the Commonwealth.

1929 "Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

1930 "Revenue reductions related to energy efficiency programs" means reductions in the collection of total
 1931 non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that
 1932 occur due to measured and verified decreased consumption of electricity caused by energy efficiency
 1933 programs approved by the Commission and implemented by the utility, less the amount by which such non-
 1934 fuel reductions in total revenues have been mitigated through other program-related factors, including
 1935 reductions in variable operating expenses.

1936 "Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation
 1937 and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts,
 1938 that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer,
 1939 including host sites on commercial buildings, multifamily residential buildings, school or university
 1940 buildings, and buildings of a church or religious body.

1941 "Solar energy system" means a system of components that produces heat or electricity, or both, from
 1942 sunlight.

1943 "Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to
 1944 sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not
 1945 mean a generator that produces electric energy exclusively for its own consumption or the consumption of an
 1946 affiliate.

1947 "Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail
 1948 customer.

1949 "Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by electric
 1950 utility energy efficiency and demand response programs and measures installed in that program year, as well
 1951 as savings still being achieved by measures and programs implemented in prior years, or (ii) savings
 1952 attributable to newly installed combined heat and power facilities, including waste heat-to-power facilities,
 1953 and any associated reduction in transmission line losses, provided that biomass is not a fuel and the total
 1954 efficiency, including the use of thermal energy, for eligible combined heat and power facilities must meet or
 1955 exceed 65 percent and have a nameplate capacity rating of less than 25 megawatts.

1956 "Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy
 1957 through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a
 1958 retail customer.

1959 "Transmission system" means those facilities and equipment that are required to provide for the
 1960 transmission of electric energy.

1961 "Waste heat to power" means a system that generates electricity through the recovery of a qualified waste
 1962 heat resource.

1963 **§ 58.1-2201. Definitions.**

1964 As used in this chapter, unless the context requires otherwise:

1965 "Alternative fuel" means a combustible gas, liquid or other energy source that can be used to generate
 1966 power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric
 1967 motor vehicle or a hybrid electric motor vehicle.

1968 "Alternative fuel vehicle" means a vehicle equipped to be powered by a combustible gas, liquid, or other
 1969 source of energy that can be used to generate power to operate a highway vehicle and that is neither a motor
 1970 fuel nor electricity used to recharge an electric motor vehicle or a hybrid electric motor vehicle.

1971 "Assessment" means a written determination by the Department of the amount of taxes owed by a
 1972 taxpayer. Assessments made by the Department shall be deemed to be made when a written notice of
 1973 assessment is delivered to the taxpayer by the Department or is mailed to the taxpayer at the last known
 1974 address appearing in the Commissioner's files.

1975 "Aviation consumer" means any person who uses in excess of 100,000 gallons of aviation jet fuel in any
 1976 fiscal year and is licensed pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter.

1977 "Aviation fuel" means aviation gasoline or aviation jet fuel.

1978 "Aviation gasoline" means fuel designed for use in the operation of aircraft other than jet aircraft, and sold

- 1979 or used for that purpose.
- 1980 "Aviation jet fuel" means fuel designed for use in the operation of jet or turbo-prop aircraft, and sold or
- 1981 used for that purpose.
- 1982 "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de
- 1983 minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in
- 1984 a highway vehicle.
- 1985 "Blender" means a person who produces blended fuel outside the terminal transfer system.
- 1986 "Bonded aviation jet fuel" means aviation jet fuel held in bonded storage under United States Customs
- 1987 Law and delivered into a fuel tank of aircraft operated by certificated air carriers on international flights.
- 1988 "Bonded importer" means a person, other than a supplier, who imports, by transport truck or another
- 1989 means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in another
- 1990 state in which (i) the state from which the fuel is imported does not require the seller of the fuel to collect
- 1991 motor fuel tax on the removal either at that state's rate or the rate of the destination state; (ii) the supplier of
- 1992 the fuel is not an elective supplier; or (iii) the supplier of the fuel is not a permissive supplier.
- 1993 "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which
- 1994 motor fuel may be removed at a rack.
- 1995 "Bulk user" means a person who maintains storage facilities for motor fuel and uses part or all of the
- 1996 stored fuel to operate a highway vehicle, watercraft, or aircraft.
- 1997 "Bulk user of alternative fuel" means a person who maintains storage facilities for alternative fuel and
- 1998 uses part or all of the stored fuel to operate a highway vehicle.
- 1999 "Commercial watercraft" means a watercraft employed in the business of commercial fishing, transporting
- 2000 persons or property for compensation or hire, or any other trade or business unless the watercraft is used in an
- 2001 activity of a type generally considered entertainment, amusement, or recreation. The definition shall include a
- 2002 watercraft owned by a private business and used in the conduct of its own business or operations, including
- 2003 but not limited to the transport of persons or property.
- 2004 "Commissioner" means the Commissioner of the Department of Motor Vehicles.
- 2005 "Corporate or partnership officer" means an officer or director of a corporation, partner of a partnership,
- 2006 or member of a limited liability company, who as such officer, director, partner or member is under a duty to
- 2007 perform on behalf of the corporation, partnership, or limited liability company the tax collection, accounting,
- 2008 or remitting obligations.
- 2009 "Department" means the Department of Motor Vehicles, acting directly or through its duly authorized
- 2010 officers and agents.
- 2011 "Designated inspection site" means any state highway inspection station, weigh station, agricultural
- 2012 inspection station, mobile station, or other location designated by the Commissioner or his designee to be
- 2013 used as a fuel inspection site.
- 2014 "Destination state" means the state, territory, or foreign country to which motor fuel is directed for
- 2015 delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose
- 2016 of resale or use. The term shall not include a tribal reservation of any recognized ~~Native~~ American *Indian*
- 2017 tribe.
- 2018 "Diesel fuel" means any liquid that is suitable for use as a fuel in a diesel-powered highway vehicle or
- 2019 watercraft. The term shall include undyed #1 fuel oil and undyed #2 fuel oil, but shall not include gasoline or
- 2020 aviation jet fuel.
- 2021 "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for
- 2022 subsequent sale.
- 2023 "Dyed diesel fuel" means diesel fuel that meets the dyeing and marking requirements of 26 U.S.C. § 4082.
- 2024 "Elective supplier" means a supplier who (i) is required to be licensed in the Commonwealth and (ii)
- 2025 elects to collect the tax due the Commonwealth on motor fuel that is removed at a terminal located in another
- 2026 state and has Virginia as its destination state.
- 2027 "Electric motor vehicle" means a motor vehicle that uses electricity as its only source of motive power.
- 2028 "End seller" means the person who sells fuel to the ultimate user of the fuel.
- 2029 "Export" means to obtain motor fuel in Virginia for sale or distribution in another state, territory, or
- 2030 foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller, and
- 2031 motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.
- 2032 "Exporter" means a person who obtains motor fuel in Virginia for sale or distribution in another state,
- 2033 territory, or foreign country.
- 2034 "Fuel" includes motor fuel and alternative fuel.
- 2035 "Fuel alcohol" means methanol or fuel grade ethanol.
- 2036 "Fuel alcohol provider" means a person who (i) produces fuel alcohol or (ii) imports fuel alcohol outside
- 2037 the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a railroad tank
- 2038 car.
- 2039 "Gasohol" means a blended fuel composed of gasoline and fuel grade ethanol.
- 2040 "Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and are

2041 suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have an
2042 American Society for Testing Materials octane number of less than 75 as determined by the motor method;
2043 (ii) a petroleum product component of gasoline, such as naphtha, reformate, or toluene; (iii) gasohol; and (iv)
2044 fuel grade ethanol. The term does not include aviation gasoline sold for use in an aircraft engine.

2045 "Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the United
2046 States or its departments, agencies, and instrumentalities.

2047 "Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature,
2048 pressure, or other adjustments.

2049 "Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2 fuel oil,
2050 and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial processing purposes.

2051 "Highway" means every way or place of whatever nature open to the use of the public for purposes of
2052 vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

2053 "Highway vehicle" means a self-propelled vehicle designed for use on a highway.

2054 "Hybrid electric motor vehicle" means a motor vehicle that uses electricity and another source of motive
2055 power.

2056 "Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel
2057 supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the seller
2058 constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or for the
2059 purchaser constitutes an import by the purchaser.

2060 "Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel into
2061 Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For purposes of this
2062 chapter, a motor fuel transporter shall not be considered an importer.

2063 "In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to collect
2064 the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal located in another
2065 state and has Virginia as its destination state or (ii) a supplier who does business only in Virginia.

2066 "Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et seq.) of
2067 this chapter or § 58.1-2244.

2068 "Liquid" means any substance that is liquid above its freezing point.

2069 "Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.

2070 "Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a tank
2071 wagon, a transport truck, a railroad tank car, or a marine vessel.

2072 "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of 60
2073 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.

2074 "Occasional importer" means any person who (i) imports motor fuel by any means outside the terminal
2075 transfer system and (ii) is not required to be licensed as a bonded importer.

2076 "Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a supplier's
2077 license under this chapter.

2078 "Person" means any individual; firm; cooperative; association; corporation; limited liability company;
2079 trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in
2080 bankruptcy; club, society or other group or combination acting as a unit; or public body, including but not
2081 limited to the Commonwealth, any other state, and any agency, department, institution, political subdivision
2082 or instrumentality of the Commonwealth or any other state.

2083 "Position holder" means a person who holds an inventory position of motor fuel in a terminal, as reflected
2084 on the records of the terminal operator. A person holds an "inventory position of motor fuel" when he has a
2085 contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the
2086 terminal. The term includes a terminal operator who owns fuel in the terminal.

2087 "Principal" means (i) if a partnership, all its partners; (ii) if a corporation, all its officers, directors, and
2088 controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or an
2089 individual.

2090 "Provider of alternative fuel" means a person who (i) acquires alternative fuel for sale or delivery to a bulk
2091 user or a retailer; (ii) maintains storage facilities for alternative fuel, part or all of which the person sells to
2092 someone other than a bulk user or a retailer to operate a highway vehicle; (iii) sells alternative fuel and uses
2093 part of the fuel acquired for sale to operate a highway vehicle by means of a fuel supply line from the cargo
2094 tank of the vehicle to the engine of the vehicle; or (iv) imports alternative fuel into Virginia, by a means other
2095 than the usual tank or receptacle connected with the engine of a highway vehicle, for sale or use by that
2096 person to operate a highway vehicle.

2097 "Rack" means a facility that contains a mechanism for delivering motor fuel from a refinery, terminal, or
2098 bulk plant into a transport truck, railroad tank car, or other means of transfer that is outside the terminal
2099 transfer system.

2100 "Refiner" means any person who owns, operates, or otherwise controls a refinery.

2101 "Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum

2102 products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel or at a
2103 rack.

2104 "Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to
2105 a transport truck or other means of conveyance outside the terminal transfer system is complete upon delivery
2106 into the means of conveyance.

2107 "Retailer" means a person who (i) maintains storage facilities for motor fuel and (ii) sells the fuel at retail
2108 or dispenses the fuel at a retail location.

2109 "Retailer of alternative fuel" means a person who (i) maintains storage facilities for alternative fuel and
2110 (ii) sells or dispenses the fuel at retail, to be used to generate power to operate a highway vehicle.

2111 "Supplier" means (i) a position holder, or (ii) a person who receives motor fuel pursuant to a two-party
2112 exchange. A licensed supplier includes a licensed elective supplier and licensed permissive supplier.

2113 "System transfer" means a transfer (i) of motor fuel within the terminal transfer system or (ii) of fuel
2114 grade ethanol by transport truck or railroad tank car.

2115 "Tank wagon" means a straight truck or straight truck/trailer combination designed or used to carry fuel
2116 and having a capacity of less than 6,000 gallons.

2117 "Terminal" means a motor fuel storage and distribution facility (i) to which a terminal control number has
2118 been assigned by the Internal Revenue Service, (ii) to which motor fuel is supplied by pipeline or marine
2119 vessel, and (iii) from which motor fuel may be removed at a rack.

2120 "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

2121 "Terminal transfer system" means a motor fuel distribution system consisting of refineries, pipelines,
2122 marine vessels, and terminals, and which is a "bulk transfer/terminal system" under 26 C.F.R. Part 48.4081-1.

2123 "Transmix" means (i) the buffer or interface between two different products in a pipeline shipment or (ii)
2124 a mix of two different products within a refinery or terminal that results in an off-grade mixture.

2125 "Transport truck" means a tractor truck/semitrailer combination designed or used to transport cargoes of
2126 motor fuel over a highway.

2127 "Trustee" means a person who (i) is licensed as a supplier, an elective supplier, or a permissive supplier
2128 and receives tax payments from and on behalf of a licensed or unlicensed distributor, or other person pursuant
2129 to § 58.1-2231 or (ii) is licensed as a provider of alternative fuel and receives tax payments from and on
2130 behalf of a bulk user of alternative fuel, retailer of alternative fuel or other person pursuant to § 58.1-2252.

2131 "Two-party exchange" means a transaction in which fuel is transferred from one licensed supplier to
2132 another licensed supplier pursuant to an exchange agreement, which transaction (i) includes a transfer from
2133 the person who holds the inventory position in taxable motor fuel in the terminal as reflected on the records
2134 of the terminal operator and (ii) is completed prior to removal of the product from the terminal by the
2135 receiving exchange partner.

2136 "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection
2137 Agency or Internal Revenue Service fuel-dyeing requirements.

2138 "Use" means the actual consumption or receipt of motor fuel by any person into a highway vehicle,
2139 aircraft, or watercraft.

2140 "Watercraft" means any vehicle used on waterways.

2141 "Wholesale price" means the price at the rack.

2142 **§ 58.1-2403. Exemptions.**

2143 No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

2144 1. Sold to or used by the United States government or any governmental agency thereof;
2145 2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
2146 3. Registered in the name of a volunteer fire department or volunteer emergency medical services agency
2147 not operated for profit;

2148 4. Registered to any member *or citizen* of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or
2149 any other *Virginia* recognized Indian tribe of the Commonwealth, as that term is defined in § 2.2-6100, living
2150 on the tribal reservation;

2151 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the
2152 lienholder;

2153 6. A manufactured home permanently attached to real estate and included in the sale of real estate;

2154 7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a spouse,
2155 this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;

2156 8. Transferred from an individual or partnership to a corporation or limited liability company or from a
2157 corporation or limited liability company to an individual or partnership if the transfer is incidental to the
2158 formation, organization or dissolution of a corporation or limited liability company in which the individual or
2159 partnership holds the majority interest;

2160 9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to
2161 a wholly owned subsidiary;

2162 10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable
2163 title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has

2164 owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and
2165 provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the
2166 applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to
2167 another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the
2168 time of registration in Virginia;

2169 11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

2170 b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any
2171 commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this
2172 subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in §
2173 46.2-602.2;

2174 12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus
2175 line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on
2176 the same day;

2177 13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of
2178 recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

2179 14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the
2180 use of a church conducted not for profit;

2181 15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the
2182 instruction of driver's education when such education is a part of such school's curriculum for full-time
2183 students;

2184 16. Sold to an insurance company or local government group self-insurance pool, created pursuant to §
2185 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of
2186 such vehicle a total loss claim;

2187 17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of
2188 foreign governments, their employees or agents, and members of their families, if such persons are nationals
2189 of the state by which they are appointed and are not citizens of the United States;

2190 18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit
2191 hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal
2192 Revenue Code;

2193 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier
2194 or common carrier of passengers;

2195 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or
2196 therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service
2197 organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation
2198 as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy
2199 for human ailments;

2200 21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of
2201 the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

2202 22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the
2203 Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing,
2204 medicines, and other necessities of life to, and providing shelter for, needy persons in the United States and
2205 throughout the world;

2206 23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia
2207 titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other
2208 beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed
2209 between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees
2210 holding title to the motor vehicle;

2211 24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the
2212 beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in
2213 the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death
2214 of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

2215 25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the
2216 lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect
2217 to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon
2218 request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the
2219 Commonwealth by the lessee purchasing the vehicle;

2220 26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such
2221 deceased person;

2222 27. An all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, that:

2223 a. Is being titled for the first time in the Commonwealth and that the applicant (i) has owned for more than
2224 12 months or (ii) has owned for less than 12 months and provides evidence of tax paid pursuant to Chapter 6
2225 (§ 58.1-600 et seq.); or

- 2226 b. Would otherwise be eligible for an agricultural exemption, as provided in § 58.1-609.2;
- 2227 28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of the
- 2228 Internal Revenue Code and that is primarily used by the organization to transport to markets for sale produce
- 2229 that is (i) produced by local farmers and (ii) sold by such farmers to the organization;
- 2230 29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted the
- 2231 vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or (ii)
- 2232 otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded to the
- 2233 purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the Virginia
- 2234 Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of purchase; or
- 2235 30. Any pickup or panel truck or sport utility vehicle for which the owner is required to obtain a
- 2236 permanent farm use placard pursuant to § 46.2-684.2. However, the tax as provided in § 58.1-2402 shall be
- 2237 imposed upon such vehicle based upon the current market value from the time such vehicle is (i) registered
- 2238 for a nonexempt use as required by § 46.2-600 or (ii) sold to a person who does not qualify for an exemption
- 2239 pursuant to this section.
- 2240 **§ 59.1-480. Definitions.**
- 2241 As used in this chapter:
- 2242 (1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other
- 2243 circumstances and from rules, regulations, and procedures given the effect of agreements under laws
- 2244 otherwise applicable to a particular transaction.
- 2245 (2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by
- 2246 electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by
- 2247 an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling
- 2248 an obligation required by the transaction.
- 2249 (3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an
- 2250 information processing system in order to bring about a certain result.
- 2251 (4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this
- 2252 chapter and other applicable law.
- 2253 (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,
- 2254 electromagnetic, or similar capabilities.
- 2255 (6) "Electronic agent" means a computer program or an electronic or other automated means used
- 2256 independently to initiate an action or respond to electronic records or performances in whole or in part,
- 2257 without review or action by an individual.
- 2258 (7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by
- 2259 electronic means.
- 2260 (8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically
- 2261 associated with a record and executed or adopted by a person with the intent to sign the record.
- 2262 (9) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the
- 2263 like.
- 2264 (10) "Information processing system" means an electronic system for creating, generating, sending,
- 2265 receiving, storing, displaying, or processing information.
- 2266 (11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
- 2267 company, association, joint venture, public body, public corporation, or any other legal or commercial entity.
- 2268 (12) "Public body" shall have the same meaning as defined in § 2.2-3701 and shall also include locally
- 2269 elected constitutional officers, and anyone performing the duties of locally elected constitutional officers.
- 2270 (13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic
- 2271 or other medium and is retrievable in perceivable form.
- 2272 (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic
- 2273 signature, record, or performance is that of a specific person or for detecting changes or errors in the
- 2274 information in an electronic record. The term includes a procedure that requires the use of algorithms or other
- 2275 codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.
- 2276 (15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States
- 2277 Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term
- 2278 includes an *American* Indian tribe or band, or an Alaskan native village, which is recognized by federal law
- 2279 or formally acknowledged by a state.
- 2280 (16) "Transaction" means an action or set of actions occurring between two or more persons relating to
- 2281 the conduct of business, commercial, or governmental affairs.
- 2282 **§ 62.1-266. Ground water withdrawal permits.**
- 2283 A. The Board may issue any ground water withdrawal permit upon terms, conditions, and limitations
- 2284 necessary for the protection of the public welfare, safety, and health.
- 2285 B. Applications for ground water withdrawal permits shall be in a form prescribed by the Board and shall
- 2286 contain such information, consistent with this chapter, as the Board deems necessary.
- 2287 C. All ground water withdrawal permits issued by the Board under this chapter shall have a fixed term not

2288 to exceed 15 years. The term of a ground water withdrawal permit issued by the Board shall not be extended
 2289 by modification beyond the maximum duration, and the permit shall expire at the end of the term unless a
 2290 complete application for a new permit has been filed in a timely manner as required by the regulations of the
 2291 Board, and the Board is unable, through no fault of the permittee, to issue a new permit before the expiration
 2292 date of the previous permit.

2293 D. Renewed ground water withdrawal permits shall be for a withdrawal amount that includes such savings
 2294 as can be demonstrated to have been achieved through water conservation, provided that a beneficial use of
 2295 the permitted ground water can be demonstrated for the following permit term.

2296 E. Any permit issued by the Board under this chapter may, after notice and opportunity for a hearing, be
 2297 amended or revoked on any of the following grounds or for good cause as may be provided by the regulations
 2298 of the Board:

2299 1. The permittee has violated any regulation or order of the Board pertaining to ground water, any
 2300 condition of a ground water withdrawal permit, any provision of this chapter, or any order of a court, where
 2301 such violation presents a hazard or potential hazard to human health or the environment or is representative of
 2302 a pattern of serious or repeated violations that, in the opinion of the Board, demonstrates the permittee's
 2303 disregard for or inability to comply with applicable laws, regulations, or requirements;

2304 2. The permittee has failed to disclose fully all relevant material facts or has misrepresented a material fact
 2305 in applying for a permit, or in any other report or document required under this chapter or under the ground
 2306 water withdrawal regulations of the Board;

2307 3. The activity for which the permit was issued endangers human health or the environment and can be
 2308 regulated to acceptable levels by amendment or revocation of the permit; or

2309 4. There exists a material change in the basis on which the permit was issued that requires either a
 2310 temporary or a permanent reduction or elimination of the withdrawal controlled by the permit necessary to
 2311 protect human health or the environment.

2312 F. No application for a ground water withdrawal permit shall be considered complete unless the applicant
 2313 has provided the Executive Director of the Board with notification from the governing body of the locality in
 2314 which the withdrawal is to occur that the location and operation of the withdrawing facility is in compliance
 2315 with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The provisions of this
 2316 subsection shall not apply to any applicant exempt from compliance under Chapter 22 (§ 15.2-2200 et seq.)
 2317 of Title 15.2.

2318 G. A ground water withdrawal permit shall authorize withdrawal of a specific amount of ground water
 2319 through a single well or system of wells, including a backup well or wells, or such other means as the
 2320 withdrawer specifies.

2321 H. The Board may adopt regulations to develop a general permit for the regulation of irrigation
 2322 withdrawals from the surficial aquifer greater than 300,000 gallons in any one month. Regulations adopted
 2323 pursuant to this subsection shall provide that withdrawals from the surficial aquifer may be permitted under
 2324 either a general permit developed pursuant to this subsection or another ground water withdrawal permit.

2325 I. The Board shall promulgate regulations establishing criteria for determining whether the quantity or
 2326 quality of the ground water in a surficial aquifer is adequate to meet a proposed beneficial use. Such
 2327 regulations shall specify the information required to be submitted to the Department by a golf course or any
 2328 other person seeking a determination from the Department that either the quantity or quality of the ground
 2329 water in a surficial aquifer is not adequate to meet a proposed beneficial use. Such regulations shall require
 2330 the Department, within 30 days of receipt of a complete request, to make a determination as to the adequacy
 2331 of the quantity or quality of the ground water in a surficial aquifer.

2332 J. If the proposed permit will allow for ground water withdrawals greater than 365 million gallons per
 2333 year in a locality identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2 of §
 2334 2.2-401.01, the Board shall ensure that the Department consults with any potentially impacted federally
 2335 recognized ~~Tribal Nations in the Commonwealth~~ *tribe* pursuant to the policies and procedures adopted by the
 2336 Department pursuant to § 10.1-1186.3:1. Should feedback from a potentially impacted federally recognized
 2337 ~~Tribal Nations in the Commonwealth~~ *tribe* not be received by the deadline established in the Department's
 2338 policies and procedures, the consultation provisions of this section shall be deemed fulfilled. *For the*
 2339 *purposes of this subsection, the term "federally recognized tribe" has the same meaning as that term is*
 2340 *defined in § 2.2-6100.*

2341 § 64.2-701. Definitions.

2342 As used in this chapter, unless the context requires a different meaning:

2343 "Action," with respect to an act of a trustee, includes a failure to act.

2344 "Appointive property" means the property or property interest subject to a power of appointment.

2345 "Ascertainable standard" means a standard relating to an individual's health, education, support, or
 2346 maintenance within the meaning of § 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986 and
 2347 any applicable regulations.

2348 "Authorized fiduciary" means (i) a trustee or other fiduciary, other than a settlor, that has discretion to
 2349 distribute or direct a trustee to distribute part or all of the income or principal of the first trust to one or more

2350 current beneficiaries and that is not (a) a current beneficiary of the first trust or a beneficiary to which the net
 2351 income or principal of the first trust would be distributed if the first trust were terminated, (b) a trustee of the
 2352 first trust that may be removed and replaced by a current beneficiary who has the power to remove the
 2353 existing trustee of the first trust and designate as successor trustee a person that may be a related or
 2354 subordinate party, as defined in 26 U.S.C. § 672(c), with respect to such current beneficiary, or (c) an
 2355 individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income
 2356 and principal of the first trust; (ii) a special fiduciary appointed under § 64.2-779.6; or (iii) a special-needs
 2357 fiduciary under § 64.2-779.10.

2358 "Beneficiary" means a person that (i) has a present or future, vested or contingent, beneficial interest in a
 2359 trust; (ii) holds a power of appointment over trust property; or (iii) is an identified charitable organization that
 2360 will or may receive distributions under the terms of the trust.

2361 "Charitable interest" means an interest in a trust that (i) is held by an identified charitable organization and
 2362 makes the organization a qualified beneficiary; (ii) benefits only charitable organizations and, if the interest
 2363 were held by an identified charitable organization, would make the organization a qualified beneficiary; or
 2364 (iii) is held solely for charitable purposes and, if the interest were held by an identified charitable
 2365 organization, would make the organization a qualified beneficiary.

2366 "Charitable organization" means (i) a person, other than an individual, organized and operated exclusively
 2367 for charitable purposes or (ii) a government or governmental subdivision, agency, or instrumentality, to the
 2368 extent that it holds funds exclusively for a charitable purpose.

2369 "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion
 2370 of health, a municipal or other governmental purpose, or another purpose the achievement of which is
 2371 beneficial to the community.

2372 "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in §
 2373 64.2-723.

2374 "Conservator" means a person appointed by the court to administer the estate of an adult individual.

2375 "Court" means the court of the Commonwealth having jurisdiction in matters related to trusts.

2376 "Current beneficiary" means a beneficiary that on the date the beneficiary's qualification is determined is a
 2377 distributee or permissible distributee of trust income or principal. "Current beneficiary" includes the holder of
 2378 a presently exercisable general power of appointment but does not include a person that is a beneficiary only
 2379 because the person holds any other power of appointment.

2380 "Decanting power" means the power of an authorized fiduciary under the Uniform Trust Decanting Act (§
 2381 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
 2382 the first trust.

2383 "Directed trustee" means a trustee that is subject to a trust director's power of direction.

2384 "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to
 2385 protection of the environment.

2386 "Expanded distributive discretion" means a discretionary power of distribution that is not limited to an
 2387 ascertainable standard or a reasonably definite standard.

2388 "First trust" means a trust over which an authorized fiduciary may exercise the decanting power.

2389 "First-trust instrument" means the trust instrument for a first trust.

2390 "General power of appointment" means a power of appointment exercisable in favor of a powerholder, the
 2391 powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

2392 "Guardian" means a person appointed by the court to make decisions regarding the support, care,
 2393 education, health, and welfare of a minor or adult individual. The term does not include a guardian ad litem.

2394 "Guardian of the estate" means a person appointed by the court to administer the estate of a minor.

2395 "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

2396 "Jurisdiction," with respect to a geographic area, includes a state or country.

2397 "Person" means an individual; estate; business or nonprofit entity; government; governmental subdivision,
 2398 agency, or instrumentality; public corporation; or other legal entity.

2399 "Powerholder" means a person in which a donor creates a power of appointment.

2400 "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to
 2401 designate a recipient of an ownership interest in or another power of appointment over the appointive
 2402 property. "Power of appointment" does not include a power of attorney.

2403 "Power of direction" means a power over a trust granted to a person by the terms of the trust to the extent
 2404 the power is exercisable while the person is not serving as a trustee. The term includes a power over the
 2405 investment, management, or distribution of trust property or other matters of trust administration. The term
 2406 excludes the powers described in subsection A of § 64.2-779.28.

2407 "Power of withdrawal" means a presently exercisable general power of appointment other than a power
 2408 exercisable by a trustee that is limited by an ascertainable standard, or that is exercisable by another person
 2409 only upon consent of the trustee or a person holding an adverse interest.

2410 "Presently exercisable power of appointment" means a power of appointment exercisable by the
 2411 powerholder at the relevant time. "Presently exercisable power of appointment" includes a power of

2412 appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable
 2413 standard, or the passage of a specified time, only after (i) the occurrence of the specified event, (ii) the
 2414 satisfaction of the ascertainable standard, or (iii) the passage of the specified time. "Presently exercisable
 2415 power of appointment" does not include a power exercisable only at the powerholder's death.

2416 "Property" means anything that may be the subject of ownership, whether real or personal, legal or
 2417 equitable, or any interest therein.

2418 "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined,
 2419 (i) is a distributee or permissible distributee of trust income or principal; (ii) would be a distributee or
 2420 permissible distributee of trust income or principal if the interests of the distributees described in clause (i)
 2421 terminated on that date without causing the trust to terminate; or (iii) would be a distributee or permissible
 2422 distributee of trust income or principal if the trust terminated on that date.

2423 "Reasonably definite standard" means a clearly measurable standard under which a holder of a power of
 2424 distribution is legally accountable within the meaning of § 674(b)(5)(A) of the Internal Revenue Code of
 2425 1986 and any applicable regulations.

2426 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
 2427 other medium and is retrievable in perceivable form.

2428 "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a
 2429 person holding an adverse interest.

2430 "Second trust" means (i) a first trust after modification, including a restatement of the first trust, under the
 2431 Uniform Trust Decanting Act (§ 64.2-779.1 et seq.) or (ii) a trust to which a distribution of property from a
 2432 first trust is or may be made under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).

2433 "Second-trust instrument" means the trust instrument for a second trust.

2434 "Settlor," except as otherwise provided in § 64.2-779.22, means a person, including a testator, who creates
 2435 or contributes property to a trust. If more than one person creates or contributes property to a trust, each
 2436 person is a settlor of the portion of the trust property attributable to that person's contribution except to the
 2437 extent another person has the power to revoke or withdraw that portion.

2438 "Sign" means, with present intent to authenticate or adopt a record, (i) to execute or adopt a tangible
 2439 symbol or (ii) to attach to or logically associate with the record an electronic symbol, sound, or process.

2440 "Spendthrift provision" means a term of a trust that restrains both voluntary and involuntary transfer of a
 2441 beneficiary's interest.

2442 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
 2443 Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term
 2444 includes an *American* Indian tribe or band recognized by federal law or formally acknowledged by a state.

2445 "Terms of a trust" means:

2446 1. Except as otherwise provided in subdivision 2, the manifestation of the settlor's intent regarding a trust's
 2447 provisions as (i) expressed in the trust instrument or (ii) established by other evidence that would be
 2448 admissible in a judicial proceeding; or

2449 2. The trust's provisions as established, determined, or amended by (i) a trustee or trust director in
 2450 accordance with applicable law, (ii) court order, or (iii) a nonjudicial settlement agreement under § 64.2-709.

2451 "Trust director" means a person that is granted a power of direction by the terms of a trust to the extent the
 2452 power is exercisable while the person is not serving as a trustee. The person is a trust director whether or not
 2453 the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or
 2454 settlor of the trust.

2455 "Trust instrument" means a record executed by the settlor to create a trust or by any person to create a
 2456 second trust that contains some or all of the terms of the trust, including any amendments.

2457 "Trustee" includes an original, additional, and successor trustee and a cotrustee.

2458 **§ 64.2-2100. Definitions.**

2459 In this chapter:

2460 "Adult" means an individual who has attained 18 years of age.

2461 "Conservator" means a person appointed by the court to administer the property of an adult, including a
 2462 person appointed under Chapter 20 (§ 64.2-2000 et seq.).

2463 "Conservatorship order" means an order appointing a conservator.

2464 "Court" means a court of competent jurisdiction as determined by otherwise applicable Virginia law to
 2465 establish, enforce, or modify a guardianship or conservatorship order or an entity authorized under the law of
 2466 another state to establish, enforce, or modify a guardianship or conservatorship order.

2467 "Guardian" means a person appointed by the court to make decisions regarding the person of an adult,
 2468 including a person appointed under Chapter 20 (§ 64.2-2000 et seq.).

2469 "Guardianship order" means an order appointing a guardian.

2470 "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a
 2471 guardian is sought or has been issued.

2472 "Incapacitated person" means an adult for whom a guardian has been appointed.

2473 "Individually identifiable health information" means health information, including demographic

2474 information, collected from an individual that (i) is created or received by a health care provider, health plan,
 2475 employer, or health care clearinghouse and (ii) identifies the individual, or there is a reasonable basis to
 2476 believe that the information can be used to identify the individual, and relates to (a) the past, present, or
 2477 future physical or mental health or condition of the individual, (b) the provision of health care to the
 2478 individual, or (c) the past, present, or future payment for the provision of health care to the individual.

2479 "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court
 2480 to participate in a guardianship or protective proceeding.

2481 "Person," except in the term "incapacitated person" or "protected person," means an individual,
 2482 corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture,
 2483 public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or
 2484 commercial entity.

2485 "Protected health information" means individually identifiable health information that is (i) transmitted in
 2486 electronic media, (ii) maintained in electronic media, or (iii) transmitted or maintained in any other form or
 2487 medium. Protected health information excludes individually identifiable health information in (a) education
 2488 records covered by the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g); (b) records of any
 2489 student who is 18 years of age or older, or is attending a postsecondary school, that are made or maintained
 2490 by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his
 2491 professional or paraprofessional capacity, or assisting in that capacity, and that are made, maintained, or used
 2492 only in connection with the provision of treatment to the student and are not available to anyone other than
 2493 persons providing such treatment, except that such records may be personally reviewed by a physician or
 2494 other appropriate professional of the student's choice; and (c) employment records held, in its role as
 2495 employer, by a health plan, health care clearinghouse, or health care provider that transmits health
 2496 information in electronic form.

2497 "Protected person" means an adult for whom a conservatorship order has been issued.

2498 "Protective proceeding" means a judicial proceeding in which a conservatorship order is sought or has
 2499 been issued.

2500 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
 2501 other medium and is retrievable in perceivable form.

2502 "Respondent" means an adult for whom a conservatorship order or the appointment of a guardian is
 2503 sought.

2504 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
 2505 Islands, a federally recognized *American* Indian tribe, or any territory or insular possession subject to the
 2506 jurisdiction of the United States.

2507 **§ 64.2-2600. Definitions.**

2508 As used in this chapter:

2509 "Disclaimant" means the person to whom a disclaimed interest or power would have passed had the
 2510 disclaimer not been made.

2511 "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not
 2512 been made.

2513 "Disclaimer" means the refusal to accept an interest in or power over property.

2514 "Fiduciary" means a personal representative, trustee, agent acting under a power of attorney, or other
 2515 person authorized to act as a fiduciary with respect to the property of another person.

2516 "Jointly held property" means property held in the name of two or more persons under an arrangement in
 2517 which all holders have concurrent interests and under which the last surviving holder is entitled to the whole
 2518 of the property and includes, without limitation, property held as tenants by the entirety.

2519 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
 2520 company, association, joint venture, government, governmental subdivision, agency or instrumentality,
 2521 public corporation, or any other legal or commercial entity.

2522 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
 2523 Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term
 2524 includes an *American* Indian tribe or band, or Alaskan native village, recognized by federal law or formally
 2525 acknowledged by a state.

2526 "Trust" means (i) an express trust, charitable or noncharitable, with additions thereto, whenever and
 2527 however created; and (ii) a trust created pursuant to a statute, judgment, or decree, that requires the trust to be
 2528 administered in the manner of an express trust.