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HOUSE BILL NO. 368

Offered January 14, 2026

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A *BILL to amend and reenact §§ 2.2-234, 2.2-401.01, 2.2-1149, 2.2-1604, 2.2-2699.10, 2.2-4310, 10.1-104.02, 10.1-659, 10.1-1003, 10.1-1018, 10.1-1020, 10.1-1186.3:1, 10.1-1188, 10.1-2202.5, 10.1-2205.1, 10.1-2206.1, 10.1-2214, 10.1-2305, 15.2-4202, 15.2-4203, 18.2-423.1, 20-88.32, 20-146.1, 22.1-254, 24.2-128, 28.2-104.01, 28.2-302.5, 29.1-301, 29.1-401, 29.1-521, 32.1-272, 36-105.5, 51.1-700, 56-46.1, 56-576, 58.1-2201, 58.1-2403, 59.1-480, 62.1-266, 64.2-701, 64.2-2100, and 64.2-2600 of the Code of Virginia and to amend the Code of Virginia by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of sections numbered 2.2-6100 and 2.2-6101, relating to definitions; American Indians; Virginia recognized tribes; federally recognized tribes; sovereignty.*

Patron—Krizek

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-234, 2.2-401.01, 2.2-1149, 2.2-1604, 2.2-2699.10, 2.2-4310, 10.1-104.02, 10.1-659, 10.1-1003, 10.1-1018, 10.1-1020, 10.1-1186.3:1, 10.1-1188, 10.1-2202.5, 10.1-2205.1, 10.1-2206.1, 10.1-2214, 10.1-2305, 15.2-4202, 15.2-4203, 18.2-423.1, 20-88.32, 20-146.1, 22.1-254, 24.2-128, 28.2-104.01, 28.2-302.5, 29.1-301, 29.1-401, 29.1-521, 32.1-272, 36-105.5, 51.1-700, 56-46.1, 56-576, 58.1-2201, 58.1-2403, 59.1-480, 62.1-266, 64.2-701, 64.2-2100, and 64.2-2600 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of sections numbered 2.2-6100 and 2.2-6101, as follows:

§ 2.2-234. Definitions.

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

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

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

"Environmental justice" means the fair treatment and meaningful involvement of every person,

of race, color, national origin, income, faith, or disability, regarding the development, implementation, or enforcement of any environmental law, regulation, or policy.

"Fair treatment" means the equitable consideration of all people whereby no group of people

disproportionate share of any negative environmental consequence resulting from an industrial, governmental, or commercial operation, program, or policy.

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

"Low income" means having an annual household income equal to or less than the greater of (i)

amount equal to 80 percent of the median income of the area in which the household is located, as reported by the Department of Housing and Urban Development, and (ii) 200 percent of the Federal Poverty Level.

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

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

"State agency" means any agency, authority, institution, board, bureau, commission, council, or

59 instrumentality of state government in the executive branch of government.

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

62 A. The Secretary of the Commonwealth shall:

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

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

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

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

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

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

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

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

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

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

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

104 c. Appoint and establish a ~~workgroup~~ *work group* on tribal recognition composed of nonlegislative 105 citizens at large who have knowledge of ~~Virginia~~ *American Indian* history and the current status of *American* 106 *Indian* tribes in Virginia. Such ~~workgroup~~ *work group* (i) may be activated in any year in which an 107 application for full tribal recognition has been submitted and in other years as deemed appropriate by any 108 such board and (ii) shall include at a minimum a genealogist and at least two scholars with recognized 109 familiarity with ~~Virginia~~ *American Indian* tribes in Virginia. No member of the ~~workgroup~~ *work group* shall 110 be associated in any way with the applicant. Members of the ~~workgroup~~ *work group* shall be reimbursed for 111 reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 112 2.2-2825;

113 d. Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal 114 property for the purpose of aiding or facilitating the work of the board;

115 e. Make recommendations to the Secretary for full tribal recognition based on the findings of the 116 ~~workgroup~~ *work group* and the board; and

117 f. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the 118 objectives of this subsection.

119 D. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia 120 Indigenous People's Trust Fund, referred to in this section as "the Fund." The Fund shall be established on the

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

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

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

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

The provisions of this section shall not apply to the:

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

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

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

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

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

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

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

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

§ 2.2-1604. Definitions.

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

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

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

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

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

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

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

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

192 2. "American Indian" means a person having origins in any of the original peoples of North America and
193 who is regarded as such by the community of which this person claims to be a part or who is recognized by a
194 tribal organization.

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

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

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

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

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

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

224 "SWaM" means small, women-owned, or minority-owned or related to a small, women-owned, or
225 minority-owned business.

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

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

233 § 2.2-2699.10. Membership; terms; quorum; meetings.

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

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

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

247 B. The Council shall elect a ~~chairperson~~ chair and ~~vice-chairperson~~ vice-chair annually from among the
 248 membership of the Council. A majority of the members shall constitute a quorum. The meetings of the
 249 Council shall be held at the call of the ~~chairperson~~ chair or whenever the majority of the members so request.

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

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

256 **§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned,
 257 military family-owned, and service disabled veteran-owned businesses and employment services
 258 organizations.**

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

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

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

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

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

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

306 F. As used in this section:

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

310 "Military family" means (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the
311 United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38
312 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by
313 the service member to the individual shall have been provided 180 days immediately preceding an alleged
314 action that if proven true would constitute unlawful discrimination under this section instead of 180 days
315 immediately preceding an application for relief under 50 U.S.C. Chapter 50.

316 "Military family-owned business" means a business that is at least 51 percent owned by one or more
317 persons within the definition of "military family" or, in the case of a corporation, partnership, or limited
318 liability company or other entity, in which at least 51 percent of the equity ownership interest in the
319 corporation, partnership, or limited liability company or other entity is owned by one or more individuals
320 who are persons within the definition of "military family" and both the management and daily business
321 operations are controlled by one or more individuals who are persons within the definition of "military
322 family".

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

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

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

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

335 3. 4. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of
336 Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who
337 is regarded as such by the community of which this person claims to be a part.

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

341 "Minority-owned business" means a business that is at least 51 percent owned by one or more minority
342 individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or
343 limited liability company or other entity, at least 51 percent of the equity ownership interest in the
344 corporation, partnership, or limited liability company or other entity is owned by one or more minority
345 individuals who are U.S. citizens or legal resident aliens, and both the management and daily business
346 operations are controlled by one or more minority individuals, or any historically black college or university
347 as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a
348 corporation, partnership, or limited liability company or other entity, the equity ownership interest in the
349 corporation, partnership, or limited liability company or other entity.

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

353 "Service disabled veteran business" means a business that is at least 51 percent owned by one or more
354 service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other
355 entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability
356 company or other entity is owned by one or more individuals who are service disabled veterans and both the
357 management and daily business operations are controlled by one or more individuals who are service disabled
358 veterans.

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

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

367 "Women-owned business" means a business that is at least 51 percent owned by one or more women who
368 are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability

369 company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women
 370 who are U.S. citizens or legal resident aliens, and both the management and daily business operations are
 371 controlled by one or more women.

372 **PART D.**

373 **STATE AND TRIBAL RELATIONS.**

374 **CHAPTER 61.**

375 **GENERAL PROVISIONS.**

376 **§ 2.2-6100. Definitions.**

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

378 *"American Indian" means a duly enrolled member or citizen of a federally recognized tribe or Virginia
 379 recognized tribe.*

380 *"Federally recognized tribe" means a Virginia recognized tribe that is recognized by the U.S. Secretary of
 381 the Interior to exist as a tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. §
 382 5131).*

383 *"Virginia recognized tribe" means an American Indian tribe within the present-day external boundaries of
 384 the Commonwealth, regardless of federal recognition status, that is formally acknowledged by the
 385 Commonwealth to exist as a tribe as reported by the Secretary of the Commonwealth pursuant to
 386 § 2.2-401.01.*

387 **§ 2.2-6101. Sovereignty of federally recognized tribes.**

388 *The Commonwealth hereby acknowledges the inherent sovereignty of federally recognized tribes within
 389 the present-day external boundaries of the Commonwealth. Nothing in this chapter alters or diminishes the
 390 sovereignty of the Commonwealth or any federally recognized tribe in Virginia, or the rights or obligations of
 391 parties under state, tribal, or federal law. The Commonwealth endeavors to maintain positive government-to-
 392 government relationships with the federally recognized tribes within the present-day external boundaries of
 393 the Commonwealth.*

394 **§ 10.1-104.02. Policies for consultation with federally recognized tribes in the Commonwealth.**

395 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
 396 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
 397 for meaningful and appropriate written consultation with potentially impacted federally recognized ~~Tribal~~
 398 ~~Nations in the Commonwealth tribes~~ regarding certain major actions or permits issued by the Department.
 399 The Department shall designate an agency official to evaluate the adequacy of consultation and ensure that
 400 agency consultation practices are consistent. Actions and permits appropriate for consultation shall include
 401 the projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
 402 federally recognized ~~Tribal Nations in the Commonwealth tribes~~ based on tribal preferences, ensure that
 403 sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~
 404 tribes to fully engage in consultation regarding the proposed action, and establish procedures for the
 405 Department to provide feedback to the federally recognized ~~Tribal Nations in the Commonwealth tribes~~ to
 406 explain how their input was considered. Should feedback from the federally recognized ~~Tribal Nations in the~~
 407 ~~Commonwealth tribes~~ not be received by the deadline established in the Department's policies and
 408 procedures, the consultation provisions of this section shall be deemed fulfilled.

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

415 C. *For the purposes of this section, "federally recognized tribe" means the same as that term is defined in
 416 § 2.2-6100.*

417 **§ 10.1-659. Flood protection programs; coordination.**

418 A. The provisions of this chapter shall be coordinated with the Virginia Coastal Resilience Master Plan,
 419 the Virginia Flood Protection Master Plan, and federal, state, and local flood prevention and water quality
 420 programs to minimize loss of life, property damage, and negative impacts on the environment. This program
 421 coordination shall include but not be limited to the following: flood prevention, flood plain management,
 422 small watershed protection, dam safety, shoreline erosion and public beach preservation, and soil
 423 conservation programs of the Department of Conservation and Recreation; the construction activities of the
 424 Department of Transportation, including projects that result in hydrologic modification of rivers, streams, and
 425 flood plains; the nontidal wetlands, water quality, Chesapeake Bay Preservation Area criteria, stormwater
 426 management, erosion and sediment control, and other water management programs of the State Water
 427 Control Board; the Virginia Coastal Zone Management Program at the Department of Environmental Quality;
 428 forested watershed management programs of the Department of Forestry; the agricultural stewardship,
 429 farmland preservation, and disaster assistance programs of the Department of Agriculture and Consumer
 430 Services; the statewide building code and other land use control programs of the Department of Housing and

431 Community Development; the habitat management programs of the Virginia Marine Resources Commission;
432 the hazard mitigation planning and disaster response programs of the Department of Emergency
433 Management; the fish and wildlife habitat protection programs of the Department of Wildlife Resources; the
434 mineral extraction regulatory program of the Department of Energy; the flood plain restrictions of the
435 Virginia Waste Management Board; flooding-related research programs of the state universities; local
436 government assistance programs of the Virginia Soil and Water Conservation Board; the Virginia Antiquities
437 Act program of the Department of Historic Resources; the public health and preparedness programs of the
438 Virginia Department of Health; the State Council of Higher Education for Virginia; the State Corporation
439 Commission; and any other state agency programs deemed necessary by the Director, and the Chief
440 Resilience Officer of the Commonwealth. The Department shall also coordinate with soil and water
441 conservation districts, Virginia Cooperative Extension agents, and planning district commissions, and shall
442 coordinate and cooperate with localities in rendering assistance to such localities in their efforts to comply
443 with the planning, subdivision of land, and zoning provisions of Chapter 22 (§ 15.2-2200 et seq.) of Title
444 15.2.

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

455 C. 1. The Chief Resilience Officer, in coordination with the Special Assistant to the Governor for Coastal
456 Adaptation and Protection and the Director, shall establish the Virginia Coastal Resilience Technical
457 Advisory Committee (the Committee) to assist with developing, updating, and implementing the Virginia
458 Coastal Resilience Master Plan.

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

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

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

478 5. The Committee shall meet at least quarterly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Carry the permit while exercising the privileges granted.

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

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

558 **§ 10.1-1018. Virginia Land Conservation Board of Trustees; membership; terms; vacancies; compensation and expenses.**

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

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

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

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

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

605 **§ 10.1-1020. Virginia Land Conservation Fund; purposes of Foundation.**

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

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

616 2. Providing grants to state agencies, including the Virginia Outdoors Foundation, and *state-recognized*

617 and federally recognized Virginia Indian Tribes, *Virginia recognized tribes* and matching grants to other
 618 public bodies and holders for acquiring fee simple title or other rights, including the purchase of development
 619 rights, to interests or privileges in real property for the protection or preservation of ecological, cultural, or
 620 historical resources, lands for recreational purposes, and lands for threatened or endangered species, fish and
 621 wildlife habitat, natural areas, agricultural and forestal lands, and open space. The Board shall establish
 622 criteria for making grants from the Fund, including procedures for determining the amount of each grant and
 623 the required match. The criteria shall include provisions for grants to localities for purchase of development
 624 rights programs.

625 Interests in land acquired as provided in subdivision 1 may be held by the Foundation, state agencies,
 626 state recognized or federally recognized Virginia Indian Tribes *Virginia recognized tribes*, other public
 627 bodies, and appropriate holders. Whenever a holder acquires any interest in land other than a fee simple
 628 interest as a result of a grant or transfer from the Foundation, such interest shall be held jointly by the holder
 629 and a public body. Whenever a holder acquires a fee simple interest in land as a result of a grant or transfer
 630 from the Foundation, a public body shall hold an open space easement in such land.

631 B. The Fund shall consist of general fund moneys and gifts, endowments, or grants from the United States
 632 government, its agencies and instrumentalities, and funds from any other available sources, public or private.
 633 Such moneys, gifts, endowments, grants, or funds from other sources may be either restricted or unrestricted.
 634 For the purposes of this chapter, "restricted funds" ~~shall mean~~ means those funds received by the Board to
 635 which specific conditions apply; "restricted funds" ~~shall include~~ includes, but is not be limited to, general
 636 obligation bond moneys and conditional gifts. "Unrestricted funds" ~~shall mean~~ means those received by the
 637 Foundation to which no specific conditions apply; "unrestricted funds" ~~shall include~~ includes, but is not be
 638 limited to, moneys appropriated to the Fund by the General Assembly to which no specific conditions are
 639 attached and unconditional gifts.

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

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

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

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

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

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

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

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

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

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

676 I. For the purposes of this section, "public:

677 "Holder" means the same as that term is defined in § 10.1-1009.

678 "Public body" shall have the meaning ascribed to it means the same as that term is defined in § 10.1-1700;

679 and "holder" shall have the meaning ascribed to it in § 10.1-1009.

680 "Virginia recognized tribe" means the same as that term is defined in § 2.2-6100.

681 **§ 10.1-1186.3:1. Policies for consultation with federally recognized tribes in the Commonwealth.**

682 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
683 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
684 for meaningful and appropriate written consultation with potentially impacted federally recognized ~~Tribal~~
685 ~~Nations in the Commonwealth tribes~~ tribes regarding certain major actions or permits issued by the Department.
686 The Department shall designate an agency official to evaluate the adequacy of consultation and ensure that
687 agency consultation practices are consistent. Actions and permits appropriate for consultation shall include
688 the projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
689 federally recognized ~~Tribal Nations in the Commonwealth tribes~~ tribes based on tribal preferences, ensure that
690 sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~
691 tribes to fully engage in consultation regarding the proposed action, and establish procedures for the
692 Department to provide feedback to the federally recognized ~~Tribal Nations in the Commonwealth~~ tribes to
693 explain how their input was considered. Should feedback from the federally recognized ~~Tribal Nations in the~~
694 ~~Commonwealth tribes~~ not be received by the deadline established in the Department's policies and
695 procedures, the consultation provisions of this section shall be deemed fulfilled. For environmental impact
696 reports for major state projects prepared pursuant to § 10.1-1188, the policies and procedures shall require the
697 state project proponent to perform the required consultation.

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

706 C. For the purposes of this section, "federally recognized tribe" means the same as that term is defined in
707 § 2.2-6100.

708 **§ 10.1-1188. State agencies to submit environmental impact reports on major projects.**

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

711 For the purposes of this section, "major state project means" the acquisition of an interest in land for any
712 state facility construction, or the construction of any facility or expansion of an existing facility that is
713 hereafter undertaken by any state agency, board, commission, or authority or any branch of state government,
714 including public institutions of higher education, that costs \$500,000 or more. For the purposes of this
715 chapter, authority ~~shall~~ does not include any industrial development authority created pursuant to the
716 provisions of Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2 or Chapter 643, as amended, of the Acts of
717 Assembly of 1964. Nor ~~shall~~ does it include the Virginia Port Authority created pursuant to the provisions of
718 § 62.1-128, unless such project is a capital project that costs in excess of \$5 million. Nor ~~shall~~ does authority
719 include any housing development or redevelopment authority established pursuant to state law. For the
720 purposes of this chapter, branch of state government ~~shall~~ include ~~includes~~ any county, city, or town of the
721 Commonwealth only in connection with highway construction, reconstruction, or improvement projects
722 affecting highways or roads undertaken by the county, city, or town on projects estimated to cost more than
723 \$2 million. For projects undertaken by any locality costing more than \$500,000 and less than \$2 million, the
724 locality shall consult with the Department of Historic Resources to consider and make reasonable efforts to
725 avoid or minimize impacts to historic resources if the project involves a new location or a new disturbance
726 that extends outside the area or depth of a prior disturbance, or otherwise has the potential to affect such
727 resources adversely.

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

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

734 6. If required, a record of consultation with any federally recognized ~~Tribal Nation in the Commonwealth~~
735 ~~tribe~~ that may be impacted by the major state project in a locality identified by the Ombudsman for Tribal
736 Consultation pursuant to subdivision B 2 of § 2.2-401.01 pursuant to § 10.1-1186.3:1. The record of
737 consultation shall include the information provided to the federally recognized ~~Tribal Nation in the~~
738 ~~Commonwealth tribe~~, any feedback or response received by the federally recognized ~~Tribal Nation in the~~
739 ~~Commonwealth tribe~~, and a description of how the impact was considered or incorporated into the major
740 state project. For the purposes of this subdivision, "federally recognized tribe" means the same as that term is

741 defined in § 2.2-6100.

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

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

753 **§ 10.1-2202.5. Virginia Black, Indigenous, and People of Color Historic Preservation Fund.**

754 A. As used in this section:

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

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

762 "Organization" means a private nonprofit organization.

763 "Virginia recognized tribe" means the same as that term is defined in § 2.2-6100.

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

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

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

783 E. Grants from the Fund may be awarded for a prospective purchase or for acquisitions upon which the
784 applicant has already completed the transaction. If the transaction has been completed at the time of the
785 application for the grant, the applicant shall demonstrate that (i) the transaction was completed no more than
786 12 months prior to the date of the application for the grant and (ii) an identifiable threat to the resource or
787 compelling need for preservation existed at the time of the purchase.

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

796 G. The Director shall administer and manage the Fund and shall establish guidelines for applications,
797 evaluations, and recommendations to the Board for the award of grants from the Fund. In awarding grants,
798 the Board shall give primary consideration to the significance of the real property and the threat to and
799 integrity of features associated with such property. The Board shall also consider the applicant's financial
800 need, the ability of an applicant to provide matching funds, and the financial and administrative capacity of
801 the applicant to complete the project and maintain and manage the property in a manner that is consistent
802 with public investment and public interest, such as education, recreation, research, heritage tourism

803 promotion, or orderly community development. The Director shall make grant award recommendations to the
804 Board for approval by the Board. The Director shall incorporate the ConserveVirginia program, established
805 pursuant to § 10.1-104.6:1, into grant award recommendations to the Board, when appropriate.

806 **§ 10.1-2205.1. Policies for consultation with federally recognized tribes in the Commonwealth.**

807 A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
808 § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity
809 for meaningful and appropriate written consultation with federally recognized ~~Tribal Nations in the~~
810 ~~Commonwealth tribes~~ regarding certain major actions or permits issued by the Department. The Department
811 shall designate an agency official to evaluate the adequacy of consultation and ensure that agency
812 consultation practices are consistent. Actions and permits appropriate for consultation shall include the
813 projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying
814 federally recognized ~~Tribal Nations in the~~
815 ~~Commonwealth tribes~~ based on tribal preferences, ensure that sufficient information and time is provided for the
816 federally recognized ~~Tribal Nations in the~~
817 ~~Commonwealth tribes~~ to fully engage in consultation regarding developing informed opinions about the proposed action, and
818 establish procedures for the Department to provide feedback to the federally recognized ~~Tribal Nations in the~~
819 ~~Commonwealth tribes~~ to explain how their input was considered. Should feedback from the federally
820 recognized ~~Tribal Nations in the~~
821 ~~Commonwealth tribes~~ not be received by the deadline established in the Department's policies and procedures, the consultation provisions of this section shall be deemed fulfilled.

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

826 C. For the purposes of this section, "federally recognized tribe" means the same as that term is defined in
827 § 2.2-6100.

828 **§ 10.1-2206.1. Procedure for designating a historic district, building, structure, or site as a historic
829 landmark; National Register of Historic Places, National Historic Landmarks; historic district defined.**

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

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

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

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

863 E. For the purposes of this chapter, a historic district means a geographically definable area that contains a
864 significant concentration of historic buildings, structures, or sites having a common historical, architectural,
archaeological, or cultural heritage, and which may contain local tax parcels having separate owners.

865 Contributing properties within a registered district are historic landmarks by definition.

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

868 **§ 10.1-2214. Underwater historic property; penalty.**

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

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

879 C. It is unlawful for any person, firm, or corporation to conduct any type of recovery operations involving
880 the removal, destruction, or disturbance of any underwater historic property without first applying for and
881 receiving a permit from the Virginia Marine Resources Commission to conduct such operations pursuant to
882 § 28.2-1203. If the Virginia Marine Resources Commission, after consultation with any federally recognized
883 *Tribal Nations in the Commonwealth tribe, as that term is defined in § 2.2-6100*, pursuant to § 28.2-104.01,
884 and with the concurrence of the Department and in consultation with the Virginia Institute of Marine Science
885 and other concerned state agencies, finds that granting the permit is in the best interest of the Commonwealth,
886 it shall grant the applicant a permit. The permit shall provide that all objects recovered shall be the exclusive
887 property of the Commonwealth. The permit shall provide the applicant with a fair share of the objects
888 recovered, or in the discretion of the Department, a reasonable percentage of the cash value of the objects
889 recovered to be paid by the Department. Title to all objects recovered shall be retained by the Commonwealth
890 unless or until they are released to the applicant by the Department. All recovery operations undertaken
891 pursuant to a permit issued under this section shall be carried out under the general supervision of the
892 Department and in accordance with § 28.2-1203 and in such a manner that the maximum amount of
893 historical, scientific, archaeological, and educational information may be recovered and preserved in addition
894 to the physical recovery of items. The Virginia Marine Resources Commission shall not grant a permit to
895 conduct operations at substantially the same location described and covered by a permit previously granted if
896 recovery operations are being actively pursued, unless the holder of the previously granted permit concurs in
897 the grant of another permit.

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

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

902 **§ 10.1-2305. Permit required for the archaeological excavation of human remains.**

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

906 B. Where unmarked burials are not part of a legally chartered cemetery, archaeological excavation of such
907 burials pursuant to a permit from the Director shall be exempt from the requirements of §§ 57-38.1 and
908 57-39. However, such exemption shall not apply in the case of human burials within formally chartered
909 cemeteries that have been abandoned.

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

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

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

926 F. For the purposes of this section, "cultural affiliation" has the same definition as provided in 25 U.S.C. §

927 3001(2) of the federal Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001 et seq.)
928 and its regulations. If doubt exists as to cultural affiliation, the federally recognized ~~Tribal Nations in the~~
929 ~~Commonwealth tribe~~ with potential cultural affiliation shall make the determination.

930 *G. For purposes of this section, "federally recognized tribe" means the same as that term is defined in*
931 *§ 2.2-6100.*

932 **§ 15.2-4202. Definitions.**

933 For the purposes of this chapter, *unless the context requires a different meaning:*

934 "Commission" means a planning district commission. Planning district commissions are composed of the
935 duly appointed representatives of the localities or ~~Indian~~ federally recognized tribes ~~which~~ that are parties to
936 the charter agreement.

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

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

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

946 **§ 15.2-4203. Organization of planning district commission.**

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

959 B. The charter agreement shall set forth:

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

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

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

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

975 5. The term of office of the members, their method of selection or removal and the method for the
976 selection and the term of office of a ~~chairman~~ chair.

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

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

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

987 **§ 18.2-423.1. Placing Nazi symbol or emblem on certain property with intent to intimidate; penalty;**

989 prima facie evidence of intent.

990 A. It is unlawful for any person or persons, with the intent of intimidating another person or group of
 991 persons, to place or cause to be placed a Hakenkreuz, hooked cross, or Nazi symbol or emblem, sometimes
 992 referred to as the Nazi swastika, on (i) any church, synagogue, or other building or place used for religious
 993 worship; (ii) any school, educational facility, or community center owned or operated by a church or religious
 994 body; or (iii) the private property of another without permission.

995 B. It is unlawful for any person or persons, with the intent of intimidating another person or group of
 996 persons, to place or cause to be placed a Hakenkreuz, hooked cross, or Nazi symbol or emblem, sometimes
 997 referred to as the Nazi swastika, on a highway or other public place in a manner having a direct tendency to
 998 place another person in reasonable fear or apprehension of death or bodily injury.

999 C. A violation of this section is punishable as a Class 6 felony.

1000 D. For the purposes of this section, any such placing of a Hakenkreuz, hooked cross, or Nazi symbol or
 1001 emblem, sometimes referred to as the Nazi swastika, shall be prima facie evidence of an intent to intimidate
 1002 another person or group of persons. However, these terms do not include and are distinct from the sacred
 1003 swastika word and symbol of peace and prosperity used by Hinduism, Buddhism, Jainism, Zoroastrianism, or
 1004 Native American Indian religions.

1005 § 20-88.32. Definitions.

1006 *¶ For purposes of this chapter, unless the context requires a different meaning:*

1007 "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a
 1008 duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order
 1009 directed to the parent.

1010 "Child support order" means a support order for a child, including a child who has attained the age of
 1011 majority under the law of the issuing state or foreign country.

1012 "Convention" means the Convention on the International Recovery of Child Support and Other Forms of
 1013 Family Maintenance, concluded at The Hague on November 23, 2007.

1014 "Duty of support" means an obligation imposed or imposable by law to provide support for a child,
 1015 spouse, or former spouse, including an unsatisfied obligation to provide support.

1016 "Employer" means the source of any income as defined in § 63.2-1900.

1017 "Foreign country" means a country, including a political subdivision thereof, other than the United States,
 1018 that authorizes the issuance of support orders and:

1019 1. That has been declared under the law of the United States to be a foreign reciprocating country;

1020 2. That has established a reciprocal arrangement for child support with the Commonwealth as provided in
 1021 § 20-88.50;

1022 3. That has enacted a law or established procedures for the issuance and enforcement of support orders
 1023 which are substantially similar to the procedures under this chapter; or

1024 4. In which the Convention is in force with respect to the United States.

1025 "Foreign support order" means a support order of a foreign tribunal.

1026 "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country
 1027 which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The
 1028 term "Foreign tribunal" includes a competent authority under the Convention.

1029 "Home state" means the state or foreign country in which a child lived with a parent or a person acting as
 1030 parent for at least six consecutive months immediately preceding the time of filing of a petition or
 1031 comparable pleading for support and, if a child is less than six months old, the state or foreign country in
 1032 which the child lived from birth with any of them. A period of temporary absence of any of them is counted
 1033 as part of the six-month or other period.

1034 "Income" includes earnings or other periodic entitlements to money from any source and any other
 1035 property subject to withholding for support under the law of the Commonwealth.

1036 "Income-withholding order" means an order or other legal process directed to an obligor's employer or
 1037 other debtor, to withhold support from the obligor's income as defined in § 63.2-1900.

1038 "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable
 1039 pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or
 1040 foreign country.

1041 "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a
 1042 judgment determining parentage of a child.

1043 "Issuing state" means the state in which a tribunal issues a support order or a judgment determining
 1044 parentage of a child.

1045 "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment
 1046 determining parentage of a child.

1047 "Law" includes decisional and statutory law and rules and regulations having the force of law.

1048 "Obligee" means (i) an individual to whom a duty of support is or is alleged to be owed or in whose favor
 1049 a support order or a judgment determining parentage of a child has been issued, (ii) a foreign country, state,
 1050 or political subdivision of a state to which the rights under a duty of support or support order have been

1051 assigned or which has independent claims based on financial assistance provided to an individual obligee in
1052 place of child support, (iii) an individual seeking a judgment determining parentage of the individual's child,
1053 or (iv) a person that is a creditor in a proceeding under Article 13 (§ 20-88.83 et seq.).

1054 "Obligor" means an individual, or the estate of a decedent that (i) owes or is alleged to owe a duty of
1055 support, (ii) is alleged but has not been adjudicated to be a parent of a child, (iii) is liable under a support
1056 order, or (iv) is a debtor in a proceeding under Article 13 (§ 20-88.83 et seq.).

1057 "Outside the Commonwealth" means a location in another state, political subdivision of a state, or a
1058 country other than the United States, whether or not the country is a foreign country.

1059 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
1060 company, association, joint venture, public corporation, government or governmental subdivision, agency, or
1061 instrumentality, or any other legal or commercial entity.

1062 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
1063 other medium and is retrievable in perceivable form.

1064 "Register" means to file in a tribunal of the Commonwealth a support order or judgment determining
1065 parentage of a child issued in another state or a foreign country.

1066 "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a
1067 child is registered.

1068 "Responding state" means a state or a foreign country in which a petition or comparable pleading for
1069 support or to determine parentage of a child is filed or to which a petition or comparable pleading is
1070 forwarded for filing from another state or a foreign country.

1071 "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

1072 "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

1073 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
1074 Islands or any territory or insular possession under the jurisdiction of the United States. **The term "State"**
1075 includes ~~an~~ a federally recognized American Indian nation or tribe.

1076 "Support enforcement agency" means a public official, governmental entity, or private agency authorized
1077 to (i) seek enforcement of support orders or laws relating to the duty of support, (ii) seek establishment or
1078 modification of child support, (iii) request determination of parentage of a child, (iv) attempt to locate
1079 obligors or their assets, or (v) request determination of the controlling child support order. A support
1080 enforcement agency of the Commonwealth is not authorized to establish or enforce a support order for
1081 spousal support only.

1082 "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or
1083 subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former
1084 spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement
1085 for financial assistance provided to an individual obligee in place of child support. **The term "Support order"**
1086 may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's
1087 fees, and other relief.

1088 "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce,
1089 or modify support orders or to determine parentage of a child; however, the support enforcement agency of
1090 the Commonwealth has no authority to establish or enforce a support order for spousal support only.

1091 § 20-146.1. Definitions.

1092 *In* For purposes of this act:

1093 "Child" means an individual who has not attained ~~eighteen~~ 18 years of age.

1094 "Child custody determination" means a judgment, decree, or other order of a court providing for the legal
1095 custody, physical custody, or visitation with respect to a child. **The term "Child custody determination"**
1096 includes a permanent, temporary, initial, or modification order. **The term "Child custody determination"** does
1097 not include an order relating to child support or other monetary obligation of an individual.

1098 "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation
1099 with respect to a child is an issue. **The term "Child custody proceeding"** includes a proceeding for divorce,
1100 separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection
1101 from domestic violence, in which the issue may appear. **The term "Child custody proceeding"** does not
1102 include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Article
1103 3 (§ 20-146.22 et seq.) ~~of this chapter~~.

1104 "Commencement" means the filing of the first pleading in a proceeding.

1105 "Court" means a court of competent jurisdiction as determined by otherwise applicable Virginia law to
1106 establish, enforce, or modify a child custody determination or an entity authorized under the law of another
1107 state to establish, enforce, or modify a child custody determination.

1108 "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least
1109 six consecutive months immediately before the commencement of a child custody proceeding. In the case of
1110 a child less than six months of age, **the term "home state"** means the state in which the child lived from birth
1111 with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of
1112 the period.

1113 "Initial determination" means the first child custody determination concerning a particular child.

1114 "Issuing court" means the court that makes a child custody determination for which enforcement is sought
1115 under this act.

1116 "Issuing state" means the state in which a child custody determination is made.

1117 "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise
1118 made after a previous determination concerning the same child, whether or not it is made by the court that
1119 made the previous determination.

1120 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
1121 company, association, joint venture, government, governmental subdivision, agency, or instrumentality,
1122 public corporation, or any other legal or commercial entity.

1123 "Person acting as a parent" means a person, other than a parent, who has (i) physical custody of the child
1124 or has had physical custody for a period of six consecutive months, including any temporary absence, within
1125 one year immediately before the commencement of a child custody proceeding and (ii) been awarded legal
1126 custody by a court or claims a right to legal custody under the laws of this Commonwealth.

1127 "Physical custody" means the physical care and supervision of a child.

1128 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
1129 Islands, or any territory or insular possession subject to the jurisdiction of the United States.

1130 "Tribe" means an *American Indian* tribe or band, or Alaskan Native village, which is recognized by
1131 federal law or formally acknowledged by a state.

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

1134 A. As used in this subsection, "attend" includes participation in educational programs and courses at a site
1135 remote from the school with the permission of the school and in conformity with applicable requirements.

1136 Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth
1137 having control or charge of any child who will have reached the fifth birthday on or before September 30 of
1138 any school year and who has not passed the eighteenth birthday shall, during the period of each year the
1139 public schools are in session and for the same number of days and hours per day as the public schools, cause
1140 such child to attend a public school or a private, denominational, or parochial school or have such child
1141 taught by a tutor or teacher of qualifications prescribed by the Board and approved by the division
1142 superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

1143 As prescribed in the regulations of the Board, the requirements of this section may also be satisfied by
1144 causing a child to attend an alternative program of study or work/study offered by a public, private,
1145 denominational, or parochial school or by a public or private degree-granting institution of higher education.
1146 Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the
1147 requirements of this section may be alternatively satisfied by causing the child to attend any public
1148 educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or
1149 parochial educational pre-kindergarten program.

1150 Instruction in the home of a child or children by the parent, guardian, or other person having control or
1151 charge of such child or children shall not be classified or defined as a private, denominational or parochial
1152 school.

1153 The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile
1154 Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom
1155 the division superintendent has required to take a special program of prevention, intervention, or remediation
1156 as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall
1157 not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when
1158 such person is actively pursuing the achievement of a passing score on a high school equivalency
1159 examination approved by the Board but is not enrolled in an individual student alternative education plan
1160 pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a
1161 certificate of completion, or has achieved a passing score on a high school equivalency examination approved
1162 by the Board, or who has otherwise complied with compulsory school attendance requirements as set forth in
1163 this article.

1164 B. A school board shall excuse from attendance at school:

1165 1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is
1166 conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious
1167 training or belief" does not include essentially political, sociological or philosophical views or a merely
1168 personal moral code; and

1169 2. On the recommendation of the juvenile and domestic relations district court of the county or city in
1170 which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together
1171 with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified
1172 by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety
1173 when such concern or apprehension in that pupil's specific case is determined by the court, upon
1174 consideration of the recommendation of the principal and division superintendent, to be justified.

1175 C. Each local school board shall develop policies for excusing students who are absent by reason of
1176 observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award
1177 or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or
1178 examination, for any which he missed by reason of such absence, if the absence is verified in a manner
1179 acceptable to the school board.

1180 D. A school board may excuse from attendance at school:

1181 1. On recommendation of the principal and the division superintendent and with the written consent of the
1182 parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board,
1183 cannot benefit from education at such school; or

1184 2. On recommendation of the juvenile and domestic relations district court of the county or city in which
1185 the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

1186 E. Local school boards may allow the requirements of subsection A to be met under the following
1187 conditions:

1188 For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents,
1189 and the principal or his designee of the school in which the student is enrolled in which an individual student
1190 alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which
1191 plan must include:

1192 1. Career guidance counseling;

1193 2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency
1194 examination approved by the Board or other alternative education program approved by the local school
1195 board with attendance requirements that provide for reporting of student attendance by the chief administrator
1196 of such preparatory program or approved alternative education program to such principal or his designee;

1197 3. Mandatory enrollment in a program to earn a Board-approved career and technical education credential,
1198 such as the successful completion of an industry certification, a state licensure examination, a national
1199 occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia
1200 workplace readiness skills assessment;

1201 4. Successful completion of the course in economics and personal finance required to earn a Board-
1202 approved high school diploma;

1203 5. Counseling on the economic impact of failing to complete high school; and

1204 6. Procedures for reenrollment to comply with the requirements of subsection A.

1205 A student for whom an individual student alternative education plan has been granted pursuant to this
1206 subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory
1207 school attendance law, and the division superintendent or attendance officer of the school division in which
1208 such student was last enrolled shall seek immediate compliance with the compulsory school attendance law
1209 as set forth in this article.

1210 Students enrolled with an individual student alternative education plan shall be counted in the average
1211 daily membership of the school division.

1212 F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of
1213 Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the
1214 Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or
1215 intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have
1216 resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school
1217 division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled
1218 from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection C of § 22.1-277, require the
1219 child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

1220 G. Whenever a court orders any pupil into an alternative education program, including a program
1221 preparing students for a high school equivalency examination approved by the Board, offered in the public
1222 schools, the local school board of the school division in which the program is offered shall determine the
1223 appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public
1224 schools it supervises or resides within its school division.

1225 The juvenile and domestic relations district court of the county or city in which a pupil resides or in which
1226 charges are pending against a pupil, or any court in which charges are pending against a pupil, may require
1227 the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii)
1228 a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession
1229 or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program,
1230 including, but not limited to, night school, adult education, or any other education program designed to offer
1231 instruction to students for whom the regular program of instruction may be inappropriate.

1232 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude
1233 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
1234 this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a
1235 pupil.

1236 H. Within one calendar month of the opening of school, each school board shall send to the parents or

1237 guardian of each student enrolled in the division a copy of the compulsory school attendance law and the
 1238 enforcement procedures and policies established by the school board.

1239 I. The provisions of this article shall not apply to:

1240 1. Children suffering from contagious or infectious diseases while suffering from such diseases;

1241 2. Children whose immunizations against communicable diseases have not been completed as provided in

1242 § 22.1-271.2;

1243 3. Children under 10 years of age who live more than two miles from a public school unless public
 1244 transportation is provided within one mile of the place where such children live;

1245 4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school
 1246 unless public transportation is provided within 1.5 miles of the place where such children live; and

1247 5. Children excused pursuant to subsections B and D.

1248 Further, any child who will not have reached his sixth birthday on or before September 30 of each school
 1249 year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend
 1250 school until the following year because the child, in the opinion of the parent or guardian, is not mentally,
 1251 physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

1252 The distances specified in subdivisions 3 and 4 shall be measured or determined from the child's residence
 1253 to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such
 1254 children by the nearest practical routes which are usable for walking or riding. Disease shall be established by
 1255 the certificate of a reputable practicing physician in accordance with regulations adopted by the Board.

1256 J. Subject to guidelines established by the Department, any student who is absent from school due to his
 1257 mental or behavioral health shall be granted an excused absence.

1258 K. Subject to guidelines established by the Department, each school board (i) shall permit one school day-
 1259 long excused absence per school year for any middle school or high school student in the local school
 1260 division who is absent from school to engage in a civic event and (ii) may permit additional excused absences
 1261 for such students who are absent for such purpose. Local school boards may require that the student provide
 1262 advance notice of the intended absence and require that the student provide documentation of participation in
 1263 a civic event.

1264 L. Subject to guidelines established by the Department, any student who is a member of a ~~state-recognized~~
 1265 ~~or federally recognized tribal nation that is headquartered in the Commonwealth~~ *Virginia recognized tribe, as*
 1266 *that term is defined in § 2.2-6100*, and who is absent from school to attend such tribal nation's pow wow
 1267 gathering shall be granted one excused absence per academic year, provided that the parent of such student
 1268 provides to the student's school advance notice of such absence in the manner required by the school.

1269 **§ 24.2-128. Minority language accessibility.**

1270 A. The State Board shall designate a county, city, or town as a covered locality if it determines, in
 1271 consultation with the Director of the Census, on the basis of the 2010 American Community Survey census
 1272 data and subsequent American Community Survey data in five-year increments, or comparable census data,
 1273 that (i) more than five percent of the citizens of voting age of such county, city, or town are members of a
 1274 single language minority and are unable to speak or understand English adequately enough to participate in
 1275 the electoral process; (ii) more than 10,000 of the citizens of voting age of such county, city, or town are
 1276 members of a single language minority and are unable to speak or understand English adequately enough to
 1277 participate in the electoral process; or (iii) in the case of a county, city, or town containing all or any part of
 1278 an *American Indian* reservation, more than five percent of the *American Indian* citizens of voting age within
 1279 the *American Indian* reservation are members of a single language minority and are unable to speak or
 1280 understand English adequately enough to participate in the electoral process.

1281 B. Whenever a covered locality provides any voting or election materials, it shall provide such materials
 1282 in the language of the applicable minority group as well as in the English language. For purposes of this
 1283 requirement, "voting or election materials" means registration or voting notices, forms, instructions,
 1284 assistance, voter information pamphlets, ballots, sample ballots, candidate qualification information, and
 1285 notices regarding changes to local election districts, precincts, or polling places. For purposes of this
 1286 requirement, "registration notices" means any notice of voter registration approval, denial, or cancellation
 1287 required by the provisions of Chapter 4 (§ 24.2-400 et seq.). A covered locality may distribute such materials
 1288 in the preferred language identified by the voter.

1289 C. The Attorney General, or any qualified voter who is a member of a language minority group for whom
 1290 a covered locality is required to provide voting or election materials in such language, may institute a cause
 1291 of action in the circuit court of the covered locality to compel the provision of the voting or election materials
 1292 in the language of the applicable minority group. In such action, the court may, in its discretion, allow a
 1293 private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

1294 **§ 28.2-104.01. Policies for consultation with federally recognized tribes in the Commonwealth.**

1295 A. *For the purposes of this section, "federally recognized tribe" means the same as that term is defined in*
 1296 *§ 2.2-6100.*

1297 B. The Commission, with assistance from the Ombudsman for Tribal Consultation designated pursuant to
 1298 § 2.2-401.01, shall develop policies and procedures to ensure an opportunity for meaningful and appropriate

1299 written consultation with federally recognized ~~Tribal Nations in the Commonwealth~~ tribes regarding certain
1300 major actions or permits issued by the Commission. The Commission shall designate an agency official to
1301 evaluate the adequacy of consultation and ensure that agency consultation practices are consistent. Actions
1302 and permits appropriate for consultation shall include underwater recovery permits issued pursuant to
1303 § 10.1-2214 in a locality identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2 of
1304 § 2.2-401.01. The policies shall define an appropriate means of notifying federally recognized ~~Tribal Nations~~
1305 in the Commonwealth tribes based on tribal preferences, ensure that sufficient information and time is
1306 provided for the federally recognized ~~Tribal Nations in the Commonwealth~~ tribes to fully engage in
1307 consultation regarding the proposed action, and establish procedures for the Commission to provide feedback
1308 to the federally recognized ~~Tribal Nations in the Commonwealth~~ tribes to explain how their input was
1309 considered. Should feedback from the federally recognized ~~Tribal Nations in the Commonwealth~~ tribes not
1310 be received by the deadline established in the Commission's policies and procedures, the consultation
1311 provisions of this section shall be deemed fulfilled.

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

1313 A. The following persons shall be exempt from the requirements of obtaining a saltwater recreational
1314 fishing license as set forth in § 28.2-302.1:

- 1315 1. A person under the age of 16 or a person who has attained the age of 65.
- 1316 2. A person fishing from private real property that he owns or rents, the nonpaying guest of such person,
1317 or a member of the immediate family of such person.
- 1318 3. A person fishing from a licensed recreational boat licensed pursuant to § 28.2-302.7.
- 1319 4. A person fishing from a licensed headboat, charterboat, or pier licensed pursuant to § 28.2-302 or
1320 28.2-302.8.
- 1321 5. A person fishing with gear licensed by the Commission.
- 1322 6. The holder of a valid recreational fishing license issued by another state or jurisdiction, upon
1323 determination of reciprocity of the license by the Commissioner.
- 1324 7. Members of the following groups, as determined by the Commissioner:
 - 1325 a. Organized groups of individuals with physical or mental limitations;
 - 1326 b. Organized groups of military veterans residing in veterans' hospitals; and
 - 1327 c. School groups, grades kindergarten through 12, participating in school-sponsored trips.
- 1328 8. A permanently and totally disabled person as defined in § 58.1-3217 holding a special lifetime saltwater
1329 recreational fishing license issued pursuant to § 28.2-302.10.
- 1330 9. A person holding a lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10:1.
- 1331 10. A person fishing from a federally owned park or reserve with boundaries extending into an adjoining
1332 state that does not require a saltwater fishing license.

1333 11. A Virginia resident who is a member of ~~an American Indian tribe recognized by the Commonwealth~~ a
1334 ~~Virginia recognized tribe, as that term is defined in § 2.2-6100~~, and is carrying (i) an identification card or
1335 paper signed by the chief of his tribe, (ii) a valid tribal identification card, (iii) a written confirmation through
1336 a central tribal registry, or (iv) a certification from a tribal office, stating that the person is a member of such
1337 tribe. Such card or other certification shall create a presumption of residence in Virginia that may be rebutted
1338 by proof of actual residence elsewhere.

1339 B. No saltwater recreational fishing licenses shall be required on days that are designated as free fishing
1340 days. The Commissioner shall designate no more than three free fishing days in any calendar year. This
1341 exemption shall not apply to headboats, charterboats, or rental boats.

§ 29.1-301. Exemptions from license requirements.

1343 A. No license shall be required of landowners, their spouses, their children and grandchildren and the
1344 spouses of such children and grandchildren, or the landowner's parents, resident or nonresident, to hunt, trap
1345 and fish within the boundaries of their own lands and inland waters or while within such boundaries or upon
1346 any private permanent extension therefrom, to fish in any abutting public waters.

1347 B. No license shall be required of any stockholder owning 50 percent or more of the stock of any domestic
1348 corporation owning land in this Commonwealth, his or her spouse and children and minor grandchildren,
1349 resident or nonresident, to hunt, trap and fish within the boundaries of lands and inland waters owned by the
1350 domestic corporation.

1351 C. No license shall be required of bona fide tenants, renters or lessees to hunt, trap or fish within the
1352 boundaries of the lands or waters on which they reside or while within such boundaries or upon any private
1353 permanent extension therefrom, to fish in any abutting public waters if such individuals have the written
1354 consent of the landlord upon their person. A guest of the owner of a private fish pond shall not be required to
1355 have a fishing license to fish in such pond.

1356 D. No license shall be required of resident or nonresident persons under 16 years of age to fish.

1357 D1. No license shall be required of resident persons under 12 years of age to hunt, provided such person is
1358 accompanied and directly supervised by an adult who has, on his person, a valid Virginia hunting license as
1359 described in subsection B of § 29.1-300.1.

1360 E. No license shall be required of a resident person 65 years of age or over to hunt or trap on private

1361 property in the county or city in which he resides. An annual license at a fee of \$1 shall be required of a
 1362 resident person 65 years of age or older to fish in any inland waters of the Commonwealth, which shall be in
 1363 addition to a license to fish for trout as specified in subsection B of § 29.1-310 or a special lifetime trout
 1364 fishing license as specified in § 29.1-302.4. A resident 65 years of age or older may, upon proof of age
 1365 satisfactory to the Department and the payment of a \$1 fee, apply for and receive from any authorized agent
 1366 of the Department a nontransferable annual license permitting such person to hunt or an annual license
 1367 permitting such person to trap in all cities and counties of the Commonwealth. Any lifetime license issued
 1368 pursuant to this article prior to July 1, 1988, shall remain valid for the lifetime of the person to whom it was
 1369 issued. Any license issued pursuant to this section includes any damage stamp required pursuant to Article 3
 1370 (§ 29.1-352 et seq.) of this chapter.

1371 F. No license to fish shall be required of nonresident persons under 16 years of age when accompanied by
 1372 a person possessing a valid license to fish in Virginia.

1373 G. No license shall be required to trap rabbits with box traps.

1374 H. No license shall be required of resident persons under 16 years of age to trap when accompanied by
 1375 any person 18 years of age or older who possesses a valid state license to trap in this Commonwealth.

1376 I. No license to hunt, trap, or fish shall be required of any ~~Indian who habitually resides on an Indian~~
 1377 ~~reservation or of a member or citizen of the~~ a Virginia recognized tribe who resides in the
 1378 Commonwealth; however, such ~~Indian member or citizen~~ must have on his person an identification card or
 1379 paper signed by the chief of his tribe, a valid tribal identification card, written confirmation through a central
 1380 tribal registry, or certification from a tribal office. Such card, paper, confirmation, or certification shall set
 1381 forth that the person named is ~~an actual resident upon such reservation or a member or citizen of the~~
 1382 ~~recognized tribes in the Commonwealth a Virginia recognized tribe~~, and such card, paper, confirmation or
 1383 certification shall create a presumption of residence, which may be rebutted by proof of actual residence
 1384 elsewhere. *For the purposes of this subsection, "Virginia recognized tribe" means the same as that term is*
 1385 *defined in § 2.2-6100.*

1386 J. No license to fish shall be required of legally blind persons.

1387 K. No fishing license shall be required in any inland waters of the Commonwealth on free fishing days.
 1388 The Board shall designate no more than three free fishing days in any calendar year. In the event that a free
 1389 day is canceled as a result of an inclement weather event, the Board may designate another free fishing day in
 1390 its place.

1391 L. No license to fish, except for trout as provided in § 29.1-302.4 or subsection B of § 29.1-310, in Laurel
 1392 Lake and Beaver Pond at Breaks Interstate Park shall be required of a resident of the State of Kentucky who
 1393 (i) possesses a valid license to fish in Kentucky or (ii) is exempt under Kentucky law from the requirement of
 1394 possessing a valid fishing license.

1395 M. No license to fish, except for trout as provided in subsection B of § 29.1-310, shall be required of a
 1396 member of the armed forces of the United States, on active duty, who is a resident of the Commonwealth
 1397 while such person is on official leave, provided that person presents a copy of his leave papers upon request.

1398 N. No license to hunt or fish shall be required of any person who is not hunting or fishing but is aiding a
 1399 disabled person to hunt or fish when such disabled person possesses a valid Virginia hunting or fishing
 1400 license under § 29.1-302, 29.1-302.1, or 29.1-302.2.

1401 **§ 29.1-401. Exemptions as to fur permits.**

1402 A. A permit shall not be required of any hunter or trapper to possess or dispose of the hides, furs or pelts
 1403 of wild animals legally shot or caught by him nor of any person lawfully engaging in the business of fur
 1404 farming to possess or to dispose of the hides, furs or pelts of wild animals raised by him.

1405 B. A permit shall not be required of any Virginia resident who is a member of ~~an American Indian tribe~~
 1406 ~~recognized by the Commonwealth or a member of a federally recognized American Indian a Virginia~~
 1407 ~~recognized tribe, as that term is defined in § 2.2-6100~~, to buy and possess the hides, furs, pelts or skeletal
 1408 parts of legally obtained wild animals, except bear as prohibited in § 29.1-536, when such items are to be
 1409 used as part of traditional American Indian religious practices. Resale of items obtained under this section is
 1410 prohibited.

1411 C. The Board may adopt regulations providing further exemptions to the permit requirement.

1412 **§ 29.1-521. Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as
 1413 permitted; exception; penalty.**

1414 A. The following is unlawful:

1415 1. To hunt or kill on Sunday (i) any wild bird or wild animal, including any nuisance species, with a gun,
 1416 firearm, or other weapon, within 200 yards of a place of worship or any accessory structure thereof or (ii) any
 1417 deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs.

1418 2. To destroy or harass the nest, eggs, dens, or young of any wild bird or wild animal, except nuisance
 1419 species, at any time without a permit as required by law.

1420 3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily
 1421 bag or season limit during such day or season. However, any properly licensed person, or a person exempt
 1422 from having to obtain a license, who has obtained such daily bag or season limit while hunting may assist

1423 others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives if the
1424 weapon in his possession is an unloaded firearm, a bow without a nocked arrow, an unloaded slingbow, an
1425 unloaded arrowgun, or an unloaded crossbow. Any properly licensed person, or person exempt from having
1426 to obtain a license, who has obtained such season limit prior to commencement of the hunt may assist others
1427 who are hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he
1428 does not have a firearm, bow, slingbow, arrowgun, or crossbow in his possession.

1429 4. To knowingly occupy any baited blind or other baited place for the purpose of taking or attempting to
1430 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
1431 taking or killing it. There shall be a rebuttable presumption that a person charged with violating this
1432 subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or
1433 attempting to take any wild bird or wild animal. However, this shall not apply to baiting nuisance species of
1434 animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully
1435 trapped.

1436 5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in
1437 progress.

1438 6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except (i)
1439 as provided in § 29.1-521.3 or (ii) for the killing of nuisance species as defined in § 29.1-100 on private
1440 property by the owner of such property or his designee from a stationary automobile or other stationary
1441 vehicle.

1442 7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name
1443 and address of the trapper; or (ii) an identification number issued by the Department.

1444 8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

1445 9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the
1446 landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may
1447 authorize employees of federal, state, and local government agencies, and persons holding a valid
1448 Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that are
1449 completely submerged at least once every 72 hours, and the Board may adopt regulations permitting trappers
1450 to visit traps less frequently under specified conditions. The Board shall adopt regulations permitting trappers
1451 to use remote trap-checking technology to check traps under specified conditions.

1452 10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for transportation,
1453 transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at
1454 any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as
1455 specifically permitted by law and only by the manner or means and within the numbers stated. However, the
1456 provisions of this section shall not be construed to prohibit the (i) use or transportation of legally taken turkey
1457 carcasses, or portions thereof, for the purposes of making or selling turkey callers; (ii) the manufacture or sale
1458 of implements, including tools or utensils made from legally harvested deer skeletal parts, including antlers;
1459 (iii) the possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements
1460 authorized by regulations adopted by the Board.

1461 11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or
1462 wild animal or the carcass or any part thereof, except as specifically permitted by law, including subsection D
1463 of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal
1464 Revenue Code that is (i) organized to provide wild game as food to the hungry and (ii) authorized by the
1465 Department to possess, transport, and distribute donated or unclaimed meat to the hungry may pay a
1466 processing fee in order to obtain such meat. Such fee shall not exceed the actual cost for processing the meat.
1467 In addition, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code
1468 that is (a) organized to support wildlife habitat conservation and (b) approved by the Department shall be
1469 allowed to offer wildlife mounts that have undergone the taxidermy process for sale in conjunction with
1470 fundraising activities. A violation of this subdivision shall be punishable as provided in § 29.1-553.

1471 12. To offer for sale, sell, offer to purchase, or purchase a hunt guaranteeing the killing of a deer, bear, or
1472 wild turkey. Nothing in this subdivision shall prevent a landowner from leasing land for hunting. A violation
1473 of this subdivision shall be punishable as provided in § 29.1-553.

1474 B. Notwithstanding any other provision of this article, any American Indian who produces verification
1475 that he is an enrolled member of a *Virginia recognized tribe*, as that term is defined in § 2.2-6100, or other
1476 tribe recognized by the Commonwealth, another U.S. state, or the U.S. federal government, may possess,
1477 offer for sale, or sell to another American Indian, or offer to purchase or purchase from another American
1478 Indian, parts of legally obtained fur-bearing animals, nonmigratory game birds, and game animals, except
1479 bear. Such legally obtained parts shall include antlers, hooves, feathers, claws, and bones.

1480 "Verification" as used in this section shall include includes (i) display of a valid tribal identification card,
1481 (ii) confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv)
1482 certification from a tribal office that the person is an enrolled member of the tribe.

1483 C. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake
1484 exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of

1485 snakes resulting from the use of such devices.

1486 D. A violation of subdivisions A 1 through 10 shall be is punishable as a Class 3 misdemeanor.

1487 **§ 32.1-272. Certified copies of vital records; other copies.**

1488 A. In accordance with § 32.1-271 and the regulations adopted pursuant thereto, the State Registrar or a
1489 district health department shall, upon receipt of a written request, issue a certified copy of any vital record in
1490 the custody of the State Registrar or of a part thereof.

1491 The Commissioner of the Department of Motor Vehicles shall be authorized to issue a certified copy of a
1492 birth, death, marriage, or divorce vital record, or a part thereof, in the custody of the State Registrar.

1493 Such vital records in the State Registrar's custody may be in the form of originals, photoprocessed
1494 reproductions or data filed by electronic means.

1495 Each copy issued shall show the date of registration. Any copy issued from a record marked "delayed" or
1496 "amended," except a record amended pursuant to subsection F of this section or subsection E of § 32.1-269,
1497 shall be similarly marked and show the effective date.

1498 Certified copies may be issued by county and city registrars only while the original record is in their
1499 possession, except that at the option of the county or city registrar true and complete copies of death
1500 certificates may be retained and certified copies of such records may be issued by the county or city registrar.

1501 B. A certified copy of a vital record or any part thereof issued in accordance with subsection A shall be
1502 considered for all purposes the same as the original and shall be *prima facie* evidence of the facts therein
1503 stated, provided that the evidentiary value of a vital record filed more than one year after the event or a vital
1504 record which has been amended shall be determined by the judicial or administrative body or official before
1505 whom the certificate is offered as evidence.

1506 C. The federal agency responsible for national vital statistics may be furnished such copies or other data
1507 from the system of vital records as it may require for national statistics if such federal agency shares in the
1508 cost of collecting, processing and transmitting such data. Such data may be used for research and medical
1509 investigations of public health importance. No other use of such data shall be made by the federal agency
1510 unless authorized by the State Registrar.

1511 D. Other federal, state and local, public or private agencies or persons in the conduct of their official
1512 duties may, upon request and payment of a reasonable fee, be furnished copies or other data from the system
1513 of vital records for statistical or administrative purposes upon such terms or conditions as may be prescribed
1514 by the Board. Such copies or other data shall not be used for purposes other than those for which they were
1515 requested unless so authorized by the State Registrar.

1516 In promulgating regulations relating to the terms or conditions for public or private agencies or persons
1517 obtaining copies of death certificates in the conduct of their official duties, the Board shall include within its
1518 definition of "legal representative" (i) any attorney licensed to practice law in Virginia, upon presentation of
1519 his bar number and evidence of need to obtain such copy; and (ii) any funeral director or funeral service
1520 licensee licensed to practice by the Board of Funeral Directors and Embalmers, upon presentation of evidence
1521 to so practice and evidence of being in charge of final disposition of the registrant's dead human remains or
1522 remains or evidence of need to obtain such copy.

1523 E. No person shall prepare or issue any certificate which purports to be an original or certified copy of a
1524 vital record except as authorized in this chapter or regulations adopted hereunder.

1525 F. Certified copies of birth records filed before July 1, 1960, containing statements of racial designation
1526 on the reverse thereof shall be issued without such statement as a part of the certification; nor for this purpose
1527 solely shall such certification be marked "amended."

1528 Any American Indian or Native American whose certified copy of a birth record filed before July 1, 1960,
1529 contains a racial designation that is incorrect may obtain, without paying a fee, one certified copy of his birth
1530 record from which such incorrect racial designation has been removed. Such certification shall not be marked
1531 "amended" solely for this reason.

1532 G. With the increased fees to be charged for vital records and the additional deposits to the Vital Statistics
1533 Automation Fund, the Board of Health shall establish, within the district health departments, a statewide
1534 system for decentralizing certification of vital records, when such records are prepared or issued from data in
1535 the custody of the State Registrar and the Board of Health. Such system shall include the Department of
1536 Motor Vehicles pursuant to the authorization in subsection A.

1537 H. Any homeless youth, as described in subdivision A 7 of § 22.1-3, may obtain, without paying a fee, a
1538 certified copy of his birth record.

1539 **§ 36-105.5. Enforcement of Building Code on American Indian reservations.**

1540 A. Recognizing the unique relationship between the Commonwealth and certain of its state-recognized
1541 Indian Virginia recognized tribes, and notwithstanding any other provision of law, neither the
1542 Commonwealth nor any locality therein is responsible for the enforcement of the provisions of the Uniform
1543 Statewide Building Code (§ 36-97 et seq.) on any Indian reservation of a Virginia recognized by the
1544 Commonwealth tribe whereupon a state-recognized Indian Virginia recognized tribe has, by duly enacted
1545 tribal ordinance, adopted the Uniform Statewide Building Code and (i) assumed sole responsibility for
1546 existing buildings and new construction on the reservation and (ii) for purposes of enforcing the ordinance,

1547 retained firms or individuals to function as the building official on such reservation.

1548 B. Nothing in this section shall be construed to confer or infer responsibility or liability on any party for
1549 any action undertaken prior to July 1, 2015.

1550 C. For the purposes of this section, "Virginia recognized tribe" means the same as that term is defined in
1551 § 2.2-6100.

1552 **§ 51.1-700. Definitions.**

1553 As used in this chapter, unless the context requires a different meaning:

1554 "Agreement" means the federal-state agreement between the federal agency and the Commonwealth
1555 entered into on February 16, 1952, as authorized by this chapter, for the purpose of extending coverage under
1556 the Social Security Act and any subsequent modifications thereto.

1557 "Applicable federal law" refers to provisions of federal law, including federal regulations and
1558 requirements issued pursuant thereto, that provide for extending the benefits of the Social Security Act and
1559 the Federal Insurance Contributions Act to employees of states and their political subdivisions.

1560 "Board" means the Board of Trustees of the Virginia Retirement System.

1561 "Employee tax" means the tax imposed by § 3101 of the Internal Revenue Code of 1986, as amended.

1562 "Employer" means the Commonwealth or a political subdivision thereof, as defined in this chapter.

1563 "Employment" means employment as defined in the Social Security Act as modified under the terms of
1564 the agreement and pursuant to the authority granted the state social security administrator under § 51.1-707.

1565 "Federal agency" means the federal officer, department, or agency charged on behalf of the federal
1566 government with the particular federal functions referred to in this chapter in connection with such term.

1567 "Federal Insurance Contributions Act" means subchapters A and B of Chapter 21 of the Internal Revenue
1568 Code of 1986, as amended.

1569 "Local employee" means any officer or employee of a political subdivision and includes "special
1570 employees," which means a county or city treasurer, commissioner of revenue, attorney for the
1571 Commonwealth, clerk of court, sheriff, and a deputy or employee of any such officer.

1572 "Modification" means an amendment to the original agreement to modify coverage for coverage groups or
1573 to extend coverage to additional coverage groups consistent with the provisions of Section 218 of the Social
1574 Security Act and this chapter.

1575 "Plan of agreement" means an agreement between the state social security administrator and an employer
1576 for the purpose of extending the benefits of the Social Security Act to coverage groups within its employ.

1577 "Political subdivision" includes an instrumentality of the Commonwealth or one or more of its political
1578 subdivisions, or of the Commonwealth and one or more of its political subdivisions, but only if such
1579 instrumentality is a juristic entity which is legally separate and distinct from the Commonwealth or a political
1580 subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the
1581 Commonwealth or a political subdivision. "Political subdivision" includes Indian Virginia recognized tribes
1582 as that term is defined in § 2.2-6100.

1583 "Social Security Act" means the act of Congress approved August 14, 1935, Chapter 531, 49 Statutes 620,
1584 officially cited as the "Social Security Act," as such act has been and may be amended.

1585 "State employee" means any person who is employed in the service of the Commonwealth but shall does
1586 not include any member of the General Assembly or local employee.

1587 "State social security administrator" means the Director of the Virginia Retirement System.

1588 "Teacher" means any person who is regularly employed on a salaried basis as a professional or clerical
1589 employee of a county, city, or other local public school board.

1590 "Wages" means all remuneration for employment, including the cash value of all remuneration paid in any
1591 medium other than cash, except that part of such remuneration which, even if it were paid for "employment"
1592 within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the
1593 meaning of that act.

1594 **§ 56-46.1. Commission to consider environmental, economic, and improvements in service
1595 reliability factors in approving construction of electrical utility facilities; approval required for
1596 construction of certain electrical transmission lines; notice and hearings.**

1597 A. Whenever the Commission is required to approve the construction of any electrical utility facility, it
1598 shall give consideration to the effect of that facility on the environment and establish such conditions as may
1599 be desirable or necessary to minimize adverse environmental impact. In order to avoid duplication of
1600 governmental activities, any valid permit or approval required for an electric generating plant and associated
1601 facilities issued or granted by a federal, state, or local governmental entity charged by law with responsibility
1602 for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental
1603 impact or for other specific public interest issues such as building codes, transportation plans, and public
1604 safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be
1605 deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the
1606 permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in
1607 issuing such permit or approval, and the Commission shall impose no additional conditions with respect to
1608 such matters. Nothing in this section shall affect the ability of the Commission to keep the record of a case

1609 open. Nothing in this section shall affect any right to appeal such permits or approvals in accordance with
 1610 applicable law. In the case of a proposed facility located in a region that was designated as of July 1, 2001, as
 1611 serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the
 1612 Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of
 1613 any environmental permit or approval. In every proceeding under this subsection, the Commission shall
 1614 receive and give consideration to all reports that relate to the proposed facility by state agencies concerned
 1615 with environmental protection; and if requested by any county or municipality in which the facility is
 1616 proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223
 1617 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (a) shall consider the effect of the
 1618 proposed facility on economic development within the Commonwealth, including but not limited to
 1619 furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth
 1620 in § 45.2-1706.1, and (b) shall consider any improvements in service reliability that may result from the
 1621 construction of such facility.

1622 B. Subject to the provisions of subsection J, no electrical transmission line of 138 kilovolts or more shall
 1623 be constructed unless the State Corporation Commission shall, after at least 30 days' advance notice by (i)
 1624 publication in a newspaper or newspapers of general circulation in the counties and municipalities through
 1625 which the line is proposed to be built, (ii) written notice to the governing body of each such county and
 1626 municipality, and (iii) causing to be sent a copy of the notice by first class mail to all owners of property
 1627 within the route of the proposed line, as indicated on the map or sketch of the route filed with the
 1628 Commission, which requirement shall be satisfied by mailing the notice to such persons at such addresses as
 1629 are indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer of
 1630 the county or municipality, approve such line. Such notices shall include a written description of the proposed
 1631 route the line is to follow, as well as a map or sketch of the route including a digital geographic information
 1632 system (GIS) map provided by the public utility showing the location of the proposed route. The Commission
 1633 shall make GIS maps provided under this subsection available to the public on the Commission's website.
 1634 Such notices shall be in addition to the advance notice to the chief administrative officer of the county or
 1635 municipality required pursuant to § 15.2-2202.

1636 As a condition to approval the Commission shall determine that the line is needed and that the corridor or
 1637 route chosen for the line will avoid or reasonably minimize adverse impact to the greatest extent reasonably
 1638 practicable on the scenic assets, historic and cultural resources recorded with the Department of Historic
 1639 Resources, cultural resources identified by federally recognized ~~Tribal Nations in the Commonwealth~~ tribes,
 1640 and environment of the area concerned. To assist the Commission in this determination, as part of the
 1641 application for Commission approval of the line, the applicant shall summarize its efforts to avoid or
 1642 reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic
 1643 resources recorded with the Department of Historic Resources, and environment of the area concerned. In
 1644 making the determinations about need, corridor or route, and method of installation, the Commission shall
 1645 verify the applicant's load flow modeling, contingency analyses, and reliability needs presented to justify the
 1646 new line and its proposed method of installation. If the local comprehensive plan of an affected county or
 1647 municipality designates corridors or routes for electric transmission lines and the line is proposed to be
 1648 constructed outside such corridors or routes, in any hearing the county or municipality may provide adequate
 1649 evidence that the existing planned corridors or routes designated in the plan can adequately serve the needs of
 1650 the company. Additionally, the Commission shall consider, upon the request of the governing body of any
 1651 county or municipality in which the line is proposed to be constructed, (a) the costs and economic benefits
 1652 likely to result from requiring the underground placement of the line and (b) any potential impediments to
 1653 timely construction of the line.

1654 C. If, prior to such approval, any interested party shall request a public hearing, the Commission shall, as
 1655 soon as reasonably practicable after such request, hold such hearing or hearings at such place as may be
 1656 designated by the Commission. In any hearing, the public service company shall provide adequate evidence
 1657 that existing rights-of-way cannot adequately serve the needs of the company.

1658 If, prior to such approval, written requests therefor are received from the governing body of any county or
 1659 municipality through which the line is proposed to be built or from 20 or more interested parties, the
 1660 Commission shall hold at least one hearing in the area that would be affected by construction of the line, for
 1661 the purpose of receiving public comment on the proposal. If any hearing is to be held in the area affected, the
 1662 Commission shall direct that a copy of the transcripts of any previous hearings held in the case be made
 1663 available for public inspection at a convenient location in the area for a reasonable time before such local
 1664 hearing.

1665 D. As used in this section, unless the context requires a different meaning:

1666 "Environment" or "environmental" shall be deemed to include in meaning "historic," as well as a
 1667 consideration of the probable effects of the line on the health and safety of the persons in the area concerned.

1668 "*Federally recognized tribe*" means the same as that term is defined in § 2.2-6100.

1669 "Interested parties" includes the governing bodies of any counties or municipalities through which the line
 1670 is proposed to be built and persons residing or owning property in each such county or municipality.

1671 "Public utility" means a public utility as defined in § 56-265.1.

1672 "Qualifying facilities" means a cogeneration or small power production facility that meets the criteria of
1673 18 C.F.R. Part 292.

1674 "Reasonably accommodate requests to wheel or transmit power" means:

1675 1. That the applicant will make available to new electric generation facilities constructed after January 9,
1676 1991, qualifying facilities and other nonutilities, a minimum of one-fourth of the total megawatts of the
1677 additional transmission capacity created by the proposed line, for the purpose of wheeling to public utility
1678 purchasers the power generated by such qualifying facilities and other nonutility facilities which are awarded
1679 a power purchase contract by a public utility purchaser in compliance with applicable state law or regulations
1680 governing bidding or capacity acquisition programs for the purchase of electric capacity from nonutility
1681 sources, provided that the obligation of the applicant will extend only to those requests for wheeling service
1682 made within the 12 months following certification by the State Corporation Commission of the transmission
1683 line and with effective dates for commencement of such service within the 12 months following completion
1684 of the transmission line; and

1685 2. That the wheeling service offered by the applicant, pursuant to subdivision 1, will reasonably further
1686 the purposes of the Public Utilities Regulatory Policies Act of 1978 (P. L. 95-617), as demonstrated by
1687 submitting to the Commission, with its application for approval of the line, the cost methodologies, terms,
1688 conditions, and dispatch and interconnection requirements the applicant intends, subject to any applicable
1689 requirements of the Federal Energy Regulatory Commission, to include in its agreements for such wheeling
1690 service.

1691 E. In the event that, at any time after the giving of the notice required in subsection B, it appears to the
1692 Commission that consideration of a route or routes significantly different from the route described in the
1693 notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed
1694 in accordance with subsection B. The Commission shall thereafter comply with the provisions of this section
1695 with respect to the new route or routes to the full extent necessary to give affected localities, federally
1696 recognized ~~Tribal Nations in the Commonwealth~~ tribes, and interested parties in the newly affected areas the
1697 same protection afforded to affected localities and interested parties affected by the route described in the
1698 original notice.

1699 F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the requirements of
1700 § 15.2-2232 and local zoning ordinances with respect to such transmission line.

1701 G. The Commission shall enter into a memorandum of agreement with the Department of Environmental
1702 Quality regarding the coordination of their reviews of the environmental impact of electric generating plants
1703 and associated facilities. If the proposed plants or associated facilities are in a locality identified by the
1704 Ombudsman for Tribal Consultation pursuant to subdivision B 2 of § 2.2-401.01, such consultation
1705 information shall be included in the memorandum of agreement.

1706 H. An applicant that is required to obtain (i) a certificate of public convenience and necessity from the
1707 Commission for any electric generating facility, electric transmission line, natural or manufactured gas
1708 transmission line as defined in 49 C.F.R. § 192.3, or natural or manufactured gas storage facility (hereafter,
1709 an energy facility) and (ii) an environmental permit for the energy facility that is subject to issuance by any
1710 agency or board within the Secretariat of Natural and Historic Resources, may request a pre-application
1711 planning and review process. In any such request to the Commission or the Secretariat of Natural and
1712 Historic Resources, the applicant shall identify the proposed energy facility for which it requests the
1713 pre-application planning and review process. The Commission, the Department of Environmental Quality, the
1714 Marine Resources Commission, the Department of Wildlife Resources, the Department of Historic
1715 Resources, the Department of Conservation and Recreation, and other appropriate agencies of the
1716 Commonwealth shall participate in the pre-application planning and review process. Participation in such
1717 process shall not limit the authority otherwise provided by law to the Commission or other agencies or boards
1718 of the Commonwealth. The Commission and other participating agencies and boards of the Commonwealth
1719 may invite federal and local governmental entities charged by law with responsibility for issuing permits or
1720 approvals and potentially impacted federally recognized ~~Tribal Nations in the Commonwealth~~ tribes to
1721 participate in the pre-application planning and review process. Through the pre-application planning and
1722 review process, the applicant, the Commission, participating agencies and boards of the Commonwealth, and
1723 potentially impacted federally recognized ~~Tribal Nations in the Commonwealth~~ tribes shall identify the
1724 potential impacts and approvals that may be required and shall develop a plan that will provide for an
1725 efficient and coordinated review of the proposed energy facility. The plan shall include (a) a list of the
1726 permits or other approvals likely to be required based on the information available, (b) a specific plan and
1727 preliminary schedule for the different reviews, (c) a plan for coordinating those reviews and the related public
1728 comment process, and (d) designation of points of contact, either within each agency or for the
1729 Commonwealth as a whole, to facilitate this coordination. The plan shall be made readily available to the
1730 public and shall be maintained on a dedicated website to provide current information on the status of each
1731 component of the plan and each approval process including opportunities for public comment.

1732 I. The provisions of this section shall not apply to the construction and operation of a small renewable

1733 energy project, as defined in § 10.1-1197.5, by a utility regulated pursuant to this title for which the
 1734 Department of Environmental Quality has issued a permit by rule pursuant to Article 5 (§ 10.1-1197.5 et seq.)
 1735 of Chapter 11.1 of Title 10.1.

1736 J. Approval under this section shall not be required for any transmission line for which a certificate of
 1737 public convenience and necessity is not required pursuant to subdivision A of § 56-265.2.

1738 **§ 56-576. Definitions.**

1739 As used in this chapter, *unless the context requires a different meaning:*

1740 "Affiliate" means any person that controls, is controlled by, or is under common control with an electric
 1741 utility.

1742 "Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases,
 1743 electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on
 1744 behalf of, two or more retail customers not controlled by or under common control with such person. The
 1745 following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i)
 1746 furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational,
 1747 informational, or analytical services to two or more retail customers, unless direct or indirect compensation
 1748 for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational,
 1749 informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service
 1750 under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587,
 1751 which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common
 1752 with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of
 1753 electric energy for consumption by such retail customers.

1754 "Business park" means a land development containing a minimum of 100 contiguous acres classified as a
 1755 Tier 4 site under the Virginia Economic Development Partnership's Business Ready Sites Program that is
 1756 developed and constructed by a locality, an industrial development authority, or a similar political
 1757 subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly, in
 1758 order to promote business development.

1759 "Combined heat and power" means a method of using waste heat from electrical generation to offset
 1760 traditional processes, space heating, air conditioning, or refrigeration.

1761 "Commission" means the State Corporation Commission.

1762 "Community in which a majority of the population are people of color" means a U.S. Census tract where
 1763 more than 50 percent of the population comprises individuals who identify as belonging to one or more of the
 1764 following groups: Black, African American, Asian, Pacific Islander, **Native American Indian**, other
 1765 non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

1766 "Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

1767 "Covered entity" means a provider in the Commonwealth of an electric service not subject to competition
 1768 but does not include default service providers.

1769 "Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving
 1770 stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

1771 "Curtailment" means inducing retail customers to reduce load during times of peak demand so as to ease
 1772 the burden on the electrical grid.

1773 "Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric
 1774 energy from any supplier licensed and seeking to sell electric energy to that customer.

1775 "Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to
 1776 times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion
 1777 and higher prices in the electrical grid.

1778 "Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy
 1779 through a retail distribution system to a retail customer.

1780 "Distributor" means a person owning, controlling, or operating a retail distribution system to provide
 1781 electric energy directly to retail customers.

1782 "Electric distribution grid transformation project" means a project associated with electric distribution
 1783 infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate the
 1784 integration of utility-owned or customer-owned renewable electric generation resources with the utility's
 1785 electric distribution grid or to otherwise enhance electric distribution grid reliability, electric distribution grid
 1786 security, customer service, or energy efficiency and conservation, including advanced metering infrastructure;
 1787 intelligent grid devices for real time system and asset information; automated control systems for electric
 1788 distribution circuits and substations; communications networks for service meters; intelligent grid devices
 1789 and other distribution equipment; distribution system hardening projects for circuits, other than the
 1790 conversion of overhead tap lines to underground service, and substations designed to reduce service outages
 1791 or service restoration times; physical security measures at key distribution substations; cyber security
 1792 measures; energy storage systems and microgrids that support circuit-level grid stability, power quality,
 1793 reliability, or resiliency or provide temporary backup energy supply; electrical facilities and infrastructure
 1794 necessary to support electric vehicle charging systems; LED street light conversions; and new customer

1795 information platforms designed to provide improved customer access, greater service options, and expanded
1796 access to energy usage information.

1797 "Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail
1798 customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or
1799 electric utility owned or operated by a municipality.

1800 "Electrification" means measures that (i) electrify space heating, water heating, cooling, drying, cooking,
1801 industrial processes, and other building and industrial end uses that would otherwise be served by onsite,
1802 nonelectric fuels, provided that the electrification measures reduce site energy consumption; (ii) to the
1803 maximum extent practical, seek to combine with federally authorized customer rebates for heat pump
1804 technology; and (iii) for those measures that provide measurable and verifiable energy savings to low-income
1805 customers or elderly customers, to the maximum extent practical, seek to combine with either
1806 contemporaneously installed measures or previously installed measures that are or were provided under
1807 federally funded weatherization programs or state-provided, locality-provided, or utility-provided energy
1808 efficiency programs.

1809 "Energy efficiency program" means a program that reduces the total amount of energy that is required for
1810 the same process or activity implemented after the expiration of capped rates but does not include
1811 electrification of any process or activity primarily fueled by natural gas. Energy efficiency programs include
1812 equipment, physical, or program change designed to produce measured and verified reductions in the amount
1813 of site energy required to perform the same function and produce the same or a similar outcome. Energy
1814 efficiency programs may include (i) electrification; (ii) programs that result in improvements in lighting
1815 design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and
1816 commercial processes; (iii) measures, such as the installation of advanced meters, implemented or installed
1817 by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in
1818 generation, transmission, and distribution systems; and (iv) customer engagement programs that result in
1819 measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency
1820 programs include demand response, combined heat and power and waste heat recovery, curtailment, or other
1821 programs that are designed to reduce site energy consumption so long as they reduce the total amount of site
1822 energy that is required for the same process or activity. Utilities shall be authorized to install and operate such
1823 advanced metering technology and equipment on a customer's premises; however, nothing in this chapter
1824 establishes a requirement that an energy efficiency program be implemented on a customer's premises and be
1825 connected to a customer's wiring on the customer's side of the inter-connection without the customer's
1826 expressed consent. Electricity consumption increases that result from Commission-approved electrification
1827 measures shall not be considered as a reduction in energy savings under the energy savings requirements set
1828 forth in subsection B of § 56-596.2. Utilities may apply verified total site energy reductions that are
1829 attributable to Commission-approved electrification measures to the energy savings requirements set forth in
1830 subsection B of § 56-596.2, subject to a conversion of British thermal unit-based energy savings to an
1831 equivalent kilowatt-hour-based energy savings, which conversion shall be subject to Commission approval.

1832 "Generate," "generating," or "generation of" electric energy means the production of electric energy.

1833 "Generator" means a person owning, controlling, or operating a facility that produces electric energy for
1834 sale.

1835 "Geothermal electric generating resource" means an electric generating unit that is powered by geothermal
1836 energy as defined in § 45.2-2000.

1837 "Geothermal heating and cooling system" means a system that:

1838 1. Exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy
1839 through an electric geothermal heat pump or a system of electric geothermal heat pumps interconnected with
1840 any geothermal extraction facility that is (i) a closed loop or a series of closed loop systems in which fluid is
1841 permanently confined within a pipe or tubing and does not come in contact with the outside environment or
1842 (ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner
1843 directly into the facility and returned to the same aquifer or surface water source;

1844 2. Meets or exceeds the current federal Energy Star product specification standards;

1845 3. Replaces or displaces less efficient space or water heating systems, regardless of fuel type;

1846 4. Replaces or displaces less efficient space cooling systems that do not meet federal Energy Star product
1847 specification standards; and

1848 5. Does not feed electricity back to the grid.

1849 "Historically economically disadvantaged community" means (i) a community in which a majority of the
1850 population are people of color or (ii) a low-income geographic area.

1851 "Incremental annual savings" means the total combined kilowatt-hour savings achieved by electric utility
1852 energy efficiency and demand response programs and measures in the program year in which they are
1853 installed.

1854 "Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999,
1855 supplied electric energy to retail customers located in an exclusive service territory established by the
1856 Commission.

1857 "Independent system operator" means a person that may receive or has received, by transfer pursuant to
1858 this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission
1859 systems in the Commonwealth.

1860 "In the public interest," for purposes of assessing energy efficiency programs prior to the 2029 program
1861 year, describes an energy efficiency program if the Commission determines that the net present value of the
1862 benefits exceeds the net present value of the costs as determined by not less than any three of the following
1863 four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program
1864 Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such
1865 determination shall include an analysis of all four tests, and a program or portfolio of programs shall be
1866 approved if the net present value of the benefits exceeds the net present value of the costs as determined by
1867 not less than any three of the four tests. For programs proposed for the 2029 program year and all subsequent
1868 years, the Commission shall establish targets pursuant to subdivision B 4 of § 56-596.2, and a program shall
1869 be approved if the Commission determines it is cost-effective pursuant to applicable Commission regulations
1870 and that the net present value of the benefits exceeds the net present value of the costs as determined by the
1871 Total Resource Cost Test. If the Commission determines that an energy efficiency program or portfolio of
1872 programs is not in the public interest, its final order shall include all work product and analysis conducted by
1873 the Commission's staff in relation to that program, including testimony relied upon by the Commission's staff,
1874 that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a
1875 program or portfolio of programs, its final order shall include an analysis of the impact such budget reduction
1876 has upon the cost-effectiveness of such program or portfolio of programs. An order by the Commission (a)
1877 finding that a program or portfolio of programs is not in the public interest or (b) reducing the proposed
1878 budget for any program or portfolio of programs shall adhere to existing protocols for extraordinarily
1879 sensitive information. In addition, an energy efficiency program may be deemed to be "in the public interest"
1880 if the program (1) provides measurable and verifiable energy savings to low-income customers or elderly
1881 customers or (2) is a pilot program of limited scope, cost, and duration, that is intended to determine whether
1882 a new or substantially revised program or technology would be cost-effective.

1883 "Low-income geographic area" means any locality, or community within a locality, that has a median
1884 household income that is not greater than 80 percent of the local median household income, or any area in the
1885 Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his
1886 delegation of authority to the Internal Revenue Service.

1887 "Low-income utility customer" means any person or household whose income is no more than 80 percent
1888 of the median income of the locality in which the customer resides. The median income of the locality is
1889 determined by the U.S. Department of Housing and Urban Development.

1890 "Measured and verified" means a process determined pursuant to methods accepted for use by utilities and
1891 industries to measure, verify, and validate energy savings and peak demand savings. This may include the
1892 protocol established by the United States Department of Energy, Office of Federal Energy Management
1893 Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and
1894 verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning
1895 Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific
1896 energy efficiency measures, as determined by the Commission.

1897 "Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

1898 "New underground facilities" means facilities to provide underground distribution service. "New
1899 underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted
1900 devices, connections at customer meters, and transition terminations from existing overhead distribution
1901 sources.

1902 "Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods
1903 to times of lower demand by inducing retail customers to curtail electricity usage during periods of
1904 congestion and higher prices in the electrical grid.

1905 "Percentage of Income Payment Program (PIPP) eligible utility customer" means any person or household
1906 whose income does not exceed 150 percent of the federal poverty level.

1907 "Person" means any individual, corporation, partnership, association, company, business, trust, joint
1908 venture, or other private legal entity, and the Commonwealth or any municipality.

1909 "Previously developed project site" means any property, including related buffer areas, if any, that has
1910 been previously disturbed or developed for non-single-family residential, non-agricultural, or non-
1911 silvicultural use, regardless of whether such property currently is being used for any purpose.

1912 "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has
1913 been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of
1914 a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place
1915 before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department
1916 of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

1917 "Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that does
1918 not have, as its primary purpose, the production of electricity and (ii) a pressure drop in any gas for an

1919 industrial or commercial process.

1920 "Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal solid waste, wave motion, tides, geothermal heating and cooling systems, and geothermal electric generating resources and does not include energy derived from coal, oil, natural gas, or nuclear power. "Renewable energy" also includes the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass. "Renewable energy" does not include waste heat from fossil-fired facilities or electricity generated from pumped storage but includes run-of-river generation from a combined pumped-storage and run-of-river facility.

1928 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for residential, commercial, institutional, or industrial purposes.

1935 "Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

1939 "Renovated and improved facility" means a facility the components of which have been upgraded to enhance its operating efficiency.

1941 "Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or nonmetered points of delivery located in the Commonwealth.

1943 "Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

1944 "Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

1950 "Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer, including host sites on commercial buildings, multifamily residential buildings, school or university buildings, and buildings of a church or religious body.

1955 "Solar energy system" means a system of components that produces heat or electricity, or both, from sunlight.

1957 "Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not mean a generator that produces electric energy exclusively for its own consumption or the consumption of an affiliate.

1961 "Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail customer.

1963 "Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by electric utility energy efficiency and demand response programs and measures installed in that program year, as well as savings still being achieved by measures and programs implemented in prior years, or (ii) savings attributable to newly installed combined heat and power facilities, including waste heat-to-power facilities, and any associated reduction in transmission line losses, provided that biomass is not a fuel and the total efficiency, including the use of thermal energy, for eligible combined heat and power facilities must meet or exceed 65 percent and have a nameplate capacity rating of less than 25 megawatts.

1970 "Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a retail customer.

1973 "Transmission system" means those facilities and equipment that are required to provide for the transmission of electric energy.

1975 "Waste heat to power" means a system that generates electricity through the recovery of a qualified waste heat resource.

1977 **§ 58.1-2201. Definitions.**

1978 As used in this chapter, unless the context requires otherwise a different meaning:

1979 "Alternative fuel" means a combustible gas, liquid or other energy source that can be used to generate

1980 power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric motor vehicle or a hybrid electric motor vehicle.

1982 "Alternative fuel vehicle" means a vehicle equipped to be powered by a combustible gas, liquid, or other source of energy that can be used to generate power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric motor vehicle or a hybrid electric motor vehicle.

1985 "Assessment" means a written determination by the Department of the amount of taxes owed by a taxpayer. Assessments made by the Department shall be deemed to be made when a written notice of assessment is delivered to the taxpayer by the Department or is mailed to the taxpayer at the last known address appearing in the Commissioner's files.

1989 "Aviation consumer" means any person who uses in excess of 100,000 gallons of aviation jet fuel in any fiscal year and is licensed pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter.

1991 "Aviation fuel" means aviation gasoline or aviation jet fuel.

1992 "Aviation gasoline" means fuel designed for use in the operation of aircraft other than jet aircraft, and sold or used for that purpose.

1994 "Aviation jet fuel" means fuel designed for use in the operation of jet or turbo-prop aircraft, and sold or used for that purpose.

1996 "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle.

1999 "Blender" means a person who produces blended fuel outside the terminal transfer system.

2000 "Bonded aviation jet fuel" means aviation jet fuel held in bonded storage under United States Customs Law and delivered into a fuel tank of aircraft operated by certificated air carriers on international flights.

2002 "Bonded importer" means a person, other than a supplier, who imports, by transport truck or another means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in another state in which (i) the state from which the fuel is imported does not require the seller of the fuel to collect motor fuel tax on the removal either at that state's rate or the rate of the destination state; (ii) the supplier of the fuel is not an elective supplier; or (iii) the supplier of the fuel is not a permissive supplier.

2007 "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.

2009 "Bulk user" means a person who maintains storage facilities for motor fuel and uses part or all of the stored fuel to operate a highway vehicle, watercraft, or aircraft.

2011 "Bulk user of alternative fuel" means a person who maintains storage facilities for alternative fuel and uses part or all of the stored fuel to operate a highway vehicle.

2013 "Commercial watercraft" means a watercraft employed in the business of commercial fishing, transporting persons or property for compensation or hire, or any other trade or business unless the watercraft is used in an activity of a type generally considered entertainment, amusement, or recreation. **The definition shall include "Commercial watercraft" includes** a watercraft owned by a private business and used in the conduct of its own business or operations, including but not limited to the transport of persons or property.

2018 "Commissioner" means the Commissioner of the Department of Motor Vehicles.

2019 "Corporate or partnership officer" means an officer or director of a corporation, partner of a partnership, or member of a limited liability company, who as such officer, director, partner or member is under a duty to perform on behalf of the corporation, partnership, or limited liability company the tax collection, accounting, or remitting obligations.

2023 "Department" means the Department of Motor Vehicles, acting directly or through its duly authorized officers and agents.

2025 "Designated inspection site" means any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Commissioner or his designee to be used as a fuel inspection site.

2028 "Destination state" means the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use. **The term shall "Destination state" does not include a tribal reservation of any recognized Native American Indian tribe.**

2032 "Diesel fuel" means any liquid that is suitable for use as a fuel in a diesel-powered highway vehicle or watercraft. **The term shall include "Diesel fuel" includes** undyed #1 fuel oil and undyed #2 fuel oil; but shall does not include gasoline or aviation jet fuel.

2035 "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for subsequent sale.

2037 "Dyed diesel fuel" means diesel fuel that meets the dyeing and marking requirements of 26 U.S.C. § 4082.

2038 "Elective supplier" means a supplier who (i) is required to be licensed in the Commonwealth and (ii) elects to collect the tax due the Commonwealth on motor fuel that is removed at a terminal located in another state and has Virginia as its destination state.

2041 "Electric motor vehicle" means a motor vehicle that uses electricity as its only source of motive power.

2042 "End seller" means the person who sells fuel to the ultimate user of the fuel.

2043 "Export" means to obtain motor fuel in Virginia for sale or distribution in another state, territory, or foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller, and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.

2046 "Exporter" means a person who obtains motor fuel in Virginia for sale or distribution in another state, territory, or foreign country.

2048 "Fuel" includes motor fuel and alternative fuel.

2049 "Fuel alcohol" means methanol or fuel grade ethanol.

2050 "Fuel alcohol provider" means a person who (i) produces fuel alcohol or (ii) imports fuel alcohol outside the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a railroad tank car.

2053 "Gasohol" means a blended fuel composed of gasoline and fuel grade ethanol.

2054 "Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and are suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have an American Society for Testing Materials octane number of less than 75 as determined by the motor method; (ii) a petroleum product component of gasoline, such as naphtha, reformate, or toluene; (iii) gasohol; and (iv) fuel grade ethanol. ~~The term "Gasoline"~~ does not include aviation gasoline sold for use in an aircraft engine.

2059 "Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the United States or its departments, agencies, and instrumentalities.

2061 "Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature, pressure, or other adjustments.

2063 "Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2 fuel oil, and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial processing purposes.

2065 "Highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

2067 "Highway vehicle" means a self-propelled vehicle designed for use on a highway.

2068 "Hybrid electric motor vehicle" means a motor vehicle that uses electricity and another source of motive power.

2070 "Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the seller constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or for the purchaser constitutes an import by the purchaser.

2074 "Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel into Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For purposes of this chapter, a motor fuel transporter shall not be considered an importer.

2077 "In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to collect the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal located in another state and has Virginia as its destination state or (ii) a supplier who does business only in Virginia.

2080 "Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et seq.) ~~of this chapter~~ or § 58.1-2244.

2082 "Liquid" means any substance that is liquid above its freezing point.

2083 "Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.

2084 "Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a tank wagon, a transport truck, a railroad tank car, or a marine vessel.

2086 "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.

2088 "Occasional importer" means any person who (i) imports motor fuel by any means outside the terminal transfer system and (ii) is not required to be licensed as a bonded importer.

2090 "Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a supplier's license under this chapter.

2092 "Person" means any individual; firm; cooperative; association; corporation; limited liability company; trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in bankruptcy; club, society or other group or combination acting as a unit; or public body, including but not limited to the Commonwealth, any other state, and any agency, department, institution, political subdivision or instrumentality of the Commonwealth or any other state.

2097 "Position holder" means a person who holds an inventory position of motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds an "inventory position of motor fuel" when he has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal. ~~The term "Position holder"~~ includes a terminal operator who owns fuel in the terminal.

2101 "Principal" means (i) if a partnership, all its partners; (ii) if a corporation, all its officers, directors, and controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or an individual.

2104 "Provider of alternative fuel" means a person who (i) acquires alternative fuel for sale or delivery to a bulk
2105 user or a retailer; (ii) maintains storage facilities for alternative fuel, part or all of which the person sells to
2106 someone other than a bulk user or a retailer to operate a highway vehicle; (iii) sells alternative fuel and uses
2107 part of the fuel acquired for sale to operate a highway vehicle by means of a fuel supply line from the cargo
2108 tank of the vehicle to the engine of the vehicle; or (iv) imports alternative fuel into Virginia, by a means other
2109 than the usual tank or receptacle connected with the engine of a highway vehicle, for sale or use by that
2110 person to operate a highway vehicle.

2111 "Rack" means a facility that contains a mechanism for delivering motor fuel from a refinery, terminal, or
2112 bulk plant into a transport truck, railroad tank car, or other means of transfer that is outside the terminal
2113 transfer system.

2114 "Refiner" means any person who owns, operates, or otherwise controls a refinery.

2115 "Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum
2116 products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel or at a
2117 rack.

2118 "Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to
2119 a transport truck or other means of conveyance outside the terminal transfer system is complete upon delivery
2120 into the means of conveyance.

2121 "Retailer" means a person who (i) maintains storage facilities for motor fuel and (ii) sells the fuel at retail
2122 or dispenses the fuel at a retail location.

2123 "Retailer of alternative fuel" means a person who (i) maintains storage facilities for alternative fuel and
2124 (ii) sells or dispenses the fuel at retail, to be used to generate power to operate a highway vehicle.

2125 "Supplier" means (i) a position holder, or (ii) a person who receives motor fuel pursuant to a two-party
2126 exchange. A licensed supplier includes a licensed elective supplier and licensed permissive supplier.

2127 "System transfer" means a transfer (i) of motor fuel within the terminal transfer system or (ii) of fuel
2128 grade ethanol by transport truck or railroad tank car.

2129 "Tank wagon" means a straight truck or straight truck/trailer combination designed or used to carry fuel
2130 and having a capacity of less than 6,000 gallons.

2131 "Terminal" means a motor fuel storage and distribution facility (i) to which a terminal control number has
2132 been assigned by the Internal Revenue Service, (ii) to which motor fuel is supplied by pipeline or marine
2133 vessel, and (iii) from which motor fuel may be removed at a rack.

2134 "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

2135 "Terminal transfer system" means a motor fuel distribution system consisting of refineries, pipelines,
2136 marine vessels, and terminals, and which is a "bulk transfer/terminal system" under 26 C.F.R. Part 48.4081-1.

2137 "Transmix" means (i) the buffer or interface between two different products in a pipeline shipment or (ii)
2138 a mix of two different products within a refinery or terminal that results in an off-grade mixture.

2139 "Transport truck" means a tractor truck/semitrailer combination designed or used to transport cargoes of
2140 motor fuel over a highway.

2141 "Trustee" means a person who (i) is licensed as a supplier, an elective supplier, or a permissive supplier
2142 and receives tax payments from and on behalf of a licensed or unlicensed distributor, or other person pursuant
2143 to § 58.1-2231 or (ii) is licensed as a provider of alternative fuel and receives tax payments from and on
2144 behalf of a bulk user of alternative fuel, retailer of alternative fuel or other person pursuant to § 58.1-2252.

2145 "Two-party exchange" means a transaction in which fuel is transferred from one licensed supplier to
2146 another licensed supplier pursuant to an exchange agreement, which transaction (i) includes a transfer from
2147 the person who holds the inventory position in taxable motor fuel in the terminal as reflected on the records
2148 of the terminal operator and (ii) is completed prior to removal of the product from the terminal by the
2149 receiving exchange partner.

2150 "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection
2151 Agency or Internal Revenue Service fuel-dyeing requirements.

2152 "Use" means the actual consumption or receipt of motor fuel by any person into a highway vehicle,
2153 aircraft, or watercraft.

2154 "Watercraft" means any vehicle used on waterways.

2155 "Wholesale price" means the price at the rack.

2156 § 58.1-2403. Exemptions.

2157 No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

- 2158** 1. Sold to or used by the United States government or any governmental agency thereof;
- 2159** 2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
- 2160** 3. Registered in the name of a volunteer fire department or volunteer emergency medical services agency
2161 not operated for profit;
- 2162** 4. Registered to any member or citizen of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or
2163 any other Virginia recognized Indian tribe of the Commonwealth, as that term is defined in § 2.2-6100, living
2164 on the tribal reservation;
- 2165** 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the

2166 lienholder;

2167 6. A manufactured home permanently attached to real estate and included in the sale of real estate;

2168 7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a spouse,
2169 this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;

2170 8. Transferred from an individual or partnership to a corporation or limited liability company or from a
2171 corporation or limited liability company to an individual or partnership if the transfer is incidental to the
2172 formation, organization or dissolution of a corporation or limited liability company in which the individual or
2173 partnership holds the majority interest;

2174 9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to
2175 a wholly owned subsidiary;

2176 10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable
2177 title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has
2178 owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and
2179 provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the
2180 applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to
2181 another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the
2182 time of registration in Virginia;

2183 11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

2184 b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any
2185 commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this
2186 subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in
2187 § 46.2-602.2;

2188 12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus
2189 line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on
2190 the same day;

2191 13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of
2192 recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

2193 14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the
2194 use of a church conducted not for profit;

2195 15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the
2196 instruction of driver's education when such education is a part of such school's curriculum for full-time
2197 students;

2198 16. Sold to an insurance company or local government group self-insurance pool, created pursuant to
2199 § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of
2200 such vehicle a total loss claim;

2201 17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of
2202 foreign governments, their employees or agents, and members of their families, if such persons are nationals
2203 of the state by which they are appointed and are not citizens of the United States;

2204 18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit
2205 hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal
2206 Revenue Code;

2207 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier
2208 or common carrier of passengers;

2209 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or
2210 therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service
2211 organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation
2212 as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy
2213 for human ailments;

2214 21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of
2215 the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

2216 22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the
2217 Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing,
2218 medicines, and other necessities of life to, and providing shelter for, needy persons in the United States and
2219 throughout the world;

2220 23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia
2221 titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other
2222 beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed
2223 between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees
2224 holding title to the motor vehicle;

2225 24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the
2226 beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in

2227 the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death
 2228 of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

2229 25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the
 2230 lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect
 2231 to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon
 2232 request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the
 2233 Commonwealth by the lessee purchasing the vehicle;

2234 26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such
 2235 deceased person;

2236 27. An all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, that:

2237 a. Is being titled for the first time in the Commonwealth and that the applicant (i) has owned for more than
 2238 12 months or (ii) has owned for less than 12 months and provides evidence of tax paid pursuant to Chapter 6
 2239 (§ 58.1-600 et seq.); or

2240 b. Would otherwise be eligible for an agricultural exemption, as provided in § 58.1-609.2;

2241 28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of the
 2242 Internal Revenue Code and that is primarily used by the organization to transport to markets for sale produce
 2243 that is (i) produced by local farmers and (ii) sold by such farmers to the organization;

2244 29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted the
 2245 vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or (ii)
 2246 otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded to the
 2247 purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the Virginia
 2248 Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of purchase; or

2249 30. Any pickup or panel truck or sport utility vehicle for which the owner is required to obtain a
 2250 permanent farm use placard pursuant to § 46.2-684.2. However, the tax as provided in § 58.1-2402 shall be
 2251 imposed upon such vehicle based upon the current market value from the time such vehicle is (i) registered
 2252 for a nonexempt use as required by § 46.2-600 or (ii) sold to a person who does not qualify for an exemption
 2253 pursuant to this section.

2254 **§ 59.1-480. Definitions.**

2255 As used in this chapter, *unless the context requires a different meaning:*

2256 (1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other
 2257 circumstances and from rules, regulations, and procedures given the effect of agreements under laws
 2258 otherwise applicable to a particular transaction.

2259 (2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by
 2260 electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by
 2261 an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling
 2262 an obligation required by the transaction.

2263 (3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an
 2264 information processing system in order to bring about a certain result.

2265 (4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this
 2266 chapter and other applicable law.

2267 (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,
 2268 electromagnetic, or similar capabilities.

2269 (6) "Electronic agent" means a computer program or an electronic or other automated means used
 2270 independently to initiate an action or respond to electronic records or performances in whole or in part,
 2271 without review or action by an individual.

2272 (7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by
 2273 electronic means.

2274 (8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically
 2275 associated with a record and executed or adopted by a person with the intent to sign the record.

2276 (9) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the
 2277 like.

2278 (10) "Information processing system" means an electronic system for creating, generating, sending,
 2279 receiving, storing, displaying, or processing information.

2280 (11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
 2281 company, association, joint venture, public body, public corporation, or any other legal or commercial entity.

2282 (12) "Public body" shall have the same meaning as defined in § 2.2-3701 and shall also include locally
 2283 elected constitutional officers, and anyone performing the duties of locally elected constitutional officers.

2284 (13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic
 2285 or other medium and is retrievable in perceivable form.

2286 (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic
 2287 signature, record, or performance is that of a specific person or for detecting changes or errors in the
 2288 information in an electronic record. The term "Security procedure" includes a procedure that requires the use

2289 of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment
2290 procedures.

2291 (15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States
2292 Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. ~~The term~~
2293 "State" includes an *American* Indian tribe or band, or an Alaskan native village, which is recognized by
2294 federal law or formally acknowledged by a state.

2295 (16) "Transaction" means an action or set of actions occurring between two or more persons relating to
2296 the conduct of business, commercial, or governmental affairs.

2297 **§ 62.1-266. Ground water withdrawal permits.**

2298 A. The Board may issue any ground water withdrawal permit upon terms, conditions, and limitations
2299 necessary for the protection of the public welfare, safety, and health.

2300 B. Applications for ground water withdrawal permits shall be in a form prescribed by the Board and shall
2301 contain such information, consistent with this chapter, as the Board deems necessary.

2302 C. All ground water withdrawal permits issued by the Board under this chapter shall have a fixed term not
2303 to exceed 15 years. The term of a ground water withdrawal permit issued by the Board shall not be extended
2304 by modification beyond the maximum duration, and the permit shall expire at the end of the term unless a
2305 complete application for a new permit has been filed in a timely manner as required by the regulations of the
2306 Board, and the Board is unable, through no fault of the permittee, to issue a new permit before the expiration
2307 date of the previous permit.

2308 D. Renewed ground water withdrawal permits shall be for a withdrawal amount that includes such savings
2309 as can be demonstrated to have been achieved through water conservation, provided that a beneficial use of
2310 the permitted ground water can be demonstrated for the following permit term.

2311 E. Any permit issued by the Board under this chapter may, after notice and opportunity for a hearing, be
2312 amended or revoked on any of the following grounds or for good cause as may be provided by the regulations
2313 of the Board:

2314 1. The permittee has violated any regulation or order of the Board pertaining to ground water, any
2315 condition of a ground water withdrawal permit, any provision of this chapter, or any order of a court, where
2316 such violation presents a hazard or potential hazard to human health or the environment or is representative of
2317 a pattern of serious or repeated violations that, in the opinion of the Board, demonstrates the permittee's
2318 disregard for or inability to comply with applicable laws, regulations, or requirements;

2319 2. The permittee has failed to disclose fully all relevant material facts or has misrepresented a material fact
2320 in applying for a permit, or in any other report or document required under this chapter or under the ground
2321 water withdrawal regulations of the Board;

2322 3. The activity for which the permit was issued endangers human health or the environment and can be
2323 regulated to acceptable levels by amendment or revocation of the permit; or

2324 4. There exists a material change in the basis on which the permit was issued that requires either a
2325 temporary or a permanent reduction or elimination of the withdrawal controlled by the permit necessary to
2326 protect human health or the environment.

2327 F. No application for a ground water withdrawal permit shall be considered complete unless the applicant
2328 has provided the Executive Director of the Board with notification from the governing body of the locality in
2329 which the withdrawal is to occur that the location and operation of the withdrawing facility is in compliance
2330 with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The provisions of this
2331 subsection shall not apply to any applicant exempt from compliance under Chapter 22 (§ 15.2-2200 et seq.)
2332 of Title 15.2.

2333 G. A ground water withdrawal permit shall authorize withdrawal of a specific amount of ground water
2334 through a single well or system of wells, including a backup well or wells, or such other means as the
2335 withdrawer specifies.

2336 H. The Board may adopt regulations to develop a general permit for the regulation of irrigation
2337 withdrawals from the surficial aquifer greater than 300,000 gallons in any one month. Regulations adopted
2338 pursuant to this subsection shall provide that withdrawals from the surficial aquifer may be permitted under
2339 either a general permit developed pursuant to this subsection or another ground water withdrawal permit.

2340 I. The Board shall promulgate regulations establishing criteria for determining whether the quantity or
2341 quality of the ground water in a surficial aquifer is adequate to meet a proposed beneficial use. Such
2342 regulations shall specify the information required to be submitted to the Department by a golf course or any
2343 other person seeking a determination from the Department that either the quantity or quality of the ground
2344 water in a surficial aquifer is not adequate to meet a proposed beneficial use. Such regulations shall require
2345 the Department, within 30 days of receipt of a complete request, to make a determination as to the adequacy
2346 of the quantity or quality of the ground water in a surficial aquifer.

2347 J. If the proposed permit will allow for ground water withdrawals greater than 365 million gallons per
2348 year in a locality identified by the Ombudsman for Tribal Consultation pursuant to subdivision B 2 of
2349 § 2.2-401.01, the Board shall ensure that the Department consults with any potentially impacted federally
2350 recognized ~~Tribal Nations in the Commonwealth~~ tribe pursuant to the policies and procedures adopted by the

2351 Department pursuant to § 10.1-1186.3:1. Should feedback from a potentially impacted federally recognized
 2352 ~~Tribal Nations in the Commonwealth~~ tribe not be received by the deadline established in the Department's
 2353 policies and procedures, the consultation provisions of this section shall be deemed fulfilled. *For the*
 2354 *purposes of this subsection, "federally recognized tribe" means the same as that term is defined in*
 2355 *§ 2.2-6100.*

§ 64.2-701. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

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

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

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

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

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

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

2413 "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.
2414 "Jurisdiction," with respect to a geographic area, includes a state or country.
2415 "Person" means an individual; estate; business or nonprofit entity; government; governmental subdivision,
2416 agency, or instrumentality; public corporation; or other legal entity.
2417 "Powerholder" means a person in which a donor creates a power of appointment.
2418 "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to
2419 designate a recipient of an ownership interest in or another power of appointment over the appointive
2420 property. "Power of appointment" does not include a power of attorney.
2421 "Power of direction" means a power over a trust granted to a person by the terms of the trust to the extent
2422 the power is exercisable while the person is not serving as a trustee. ~~The term~~ "Power of direction" includes a
2423 power over the investment, management, or distribution of trust property or other matters of trust
2424 administration. ~~The term~~ "Power of direction" excludes the powers described in subsection A of
2425 § 64.2-779.28.
2426 "Power of withdrawal" means a presently exercisable general power of appointment other than a power
2427 exercisable by a trustee that is limited by an ascertainable standard, or that is exercisable by another person
2428 only upon consent of the trustee or a person holding an adverse interest.
2429 "Presently exercisable power of appointment" means a power of appointment exercisable by the
2430 powerholder at the relevant time. "Presently exercisable power of appointment" includes a power of
2431 appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable
2432 standard, or the passage of a specified time, only after (i) the occurrence of the specified event, (ii) the
2433 satisfaction of the ascertainable standard, or (iii) the passage of the specified time. "Presently exercisable
2434 power of appointment" does not include a power exercisable only at the powerholder's death.
2435 "Property" means anything that may be the subject of ownership, whether real or personal, legal or
2436 equitable, or any interest therein.
2437 "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined,
2438 (i) is a distributee or permissible distributee of trust income or principal; (ii) would be a distributee or
2439 permissible distributee of trust income or principal if the interests of the distributees described in clause (i)
2440 terminated on that date without causing the trust to terminate; or (iii) would be a distributee or permissible
2441 distributee of trust income or principal if the trust terminated on that date.
2442 "Reasonably definite standard" means a clearly measurable standard under which a holder of a power of
2443 distribution is legally accountable within the meaning of § 674(b)(5)(A) of the Internal Revenue Code of
2444 1986 and any applicable regulations.
2445 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
2446 other medium and is retrievable in perceivable form.
2447 "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a
2448 person holding an adverse interest.
2449 "Second trust" means (i) a first trust after modification, including a restatement of the first trust, under the
2450 Uniform Trust Decanting Act (§ 64.2-779.1 et seq.) or (ii) a trust to which a distribution of property from a
2451 first trust is or may be made under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).
2452 "Second-trust instrument" means the trust instrument for a second trust.
2453 "Settlor," except as otherwise provided in § 64.2-779.22, means a person, including a testator, who creates
2454 or contributes property to a trust. If more than one person creates or contributes property to a trust, each
2455 person is a settlor of the portion of the trust property attributable to that person's contribution except to the
2456 extent another person has the power to revoke or withdraw that portion.
2457 "Sign" means, with present intent to authenticate or adopt a record, (i) to execute or adopt a tangible
2458 symbol or (ii) to attach to or logically associate with the record an electronic symbol, sound, or process.
2459 "Spendthrift provision" means a term of a trust that restrains both voluntary and involuntary transfer of a
2460 beneficiary's interest.
2461 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
2462 Islands, or any territory or insular possession subject to the jurisdiction of the United States. ~~The term~~ "State"
2463 includes an *American* Indian tribe or band recognized by federal law or formally acknowledged by a state.
2464 "Terms of a trust" means:
2465 1. Except as otherwise provided in subdivision 2, the manifestation of the settlor's intent regarding a trust's
2466 provisions as (i) expressed in the trust instrument or (ii) established by other evidence that would be
2467 admissible in a judicial proceeding; or
2468 2. The trust's provisions as established, determined, or amended by (i) a trustee or trust director in
2469 accordance with applicable law, (ii) court order, or (iii) a nonjudicial settlement agreement under § 64.2-709.
2470 "Trust director" means a person that is granted a power of direction by the terms of a trust to the extent the
2471 power is exercisable while the person is not serving as a trustee. The person is a trust director whether or not
2472 the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or
2473 settlor of the trust.
2474 "Trust instrument" means a record signed by the settlor to create a trust or by any person to create a

2475 second trust that contains some or all of the terms of the trust, including any amendments.

2476 "Trustee" includes an original, additional, and successor trustee and a cotrustee.

2477 **§ 64.2-2100. Definitions.**

2478 *In For the purposes of this chapter, unless the context requires a different meaning:*

2479 "Adult" means an individual who has attained 18 years of age.

2480 "Conservator" means a person appointed by the court to administer the property of an adult, including a
2481 person appointed under Chapter 20 (§ 64.2-2000 et seq.).

2482 "Conservatorship order" means an order appointing a conservator.

2483 "Court" means a court of competent jurisdiction as determined by otherwise applicable Virginia law to
2484 establish, enforce, or modify a guardianship or conservatorship order or an entity authorized under the law of
2485 another state to establish, enforce, or modify a guardianship or conservatorship order.

2486 "Guardian" means a person appointed by the court to make decisions regarding the person of an adult,
2487 including a person appointed under Chapter 20 (§ 64.2-2000 et seq.).

2488 "Guardianship order" means an order appointing a guardian.

2489 "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a
2490 guardian is sought or has been issued.

2491 "Incapacitated person" means an adult for whom a guardian has been appointed.

2492 "Individually identifiable health information" means health information, including demographic
2493 information, collected from an individual that (i) is created or received by a health care provider, health plan,
2494 employer, or health care clearinghouse and (ii) identifies the individual, or there is a reasonable basis to
2495 believe that the information can be used to identify the individual, and relates to (a) the past, present, or
2496 future physical or mental health or condition of the individual, (b) the provision of health care to the
2497 individual, or (c) the past, present, or future payment for the provision of health care to the individual.

2498 "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court
2499 to participate in a guardianship or protective proceeding.

2500 "Person," except in the term "incapacitated person" or "protected person," means an individual,
2501 corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture,
2502 public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or
2503 commercial entity.

2504 "Protected health information" means individually identifiable health information that is (i) transmitted in
2505 electronic media, (ii) maintained in electronic media, or (iii) transmitted or maintained in any other form or
2506 medium. Protected health information excludes individually identifiable health information in (a) education
2507 records covered by the *federal Family Educational Rights and Privacy Act* (20 U.S.C. § 1232g); (b) records
2508 of any student who is 18 years of age or older, or is attending a postsecondary school, that are made or
2509 maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional
2510 acting in his professional or paraprofessional capacity, or assisting in that capacity, and that are made,
2511 maintained, or used only in connection with the provision of treatment to the student and are not available to
2512 anyone other than persons providing such treatment, except that such records may be personally reviewed by
2513 a physician or other appropriate professional of the student's choice; and (c) employment records held, in its
2514 role as employer, by a health plan, health care clearinghouse, or health care provider that transmits health
2515 information in electronic form.

2516 "Protected person" means an adult for whom a conservatorship order has been issued.

2517 "Protective proceeding" means a judicial proceeding in which a conservatorship order is sought or has
2518 been issued.

2519 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or
2520 other medium and is retrievable in perceivable form.

2521 "Respondent" means an adult for whom a conservatorship order or the appointment of a guardian is
2522 sought.

2523 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
2524 Islands, a federally recognized *American Indian* tribe, or any territory or insular possession subject to the
2525 jurisdiction of the United States.

2526 **§ 64.2-2600. Definitions.**

2527 As used in this chapter, *unless the context requires a different meaning:*

2528 "Disclaimer" means the person to whom a disclaimed interest or power would have passed had the
2529 disclaimer not been made.

2530 "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not
2531 been made.

2532 "Disclaimer" means the refusal to accept an interest in or power over property.

2533 "Fiduciary" means a personal representative, trustee, agent acting under a power of attorney, or other
2534 person authorized to act as a fiduciary with respect to the property of another person.

2535 "Jointly held property" means property held in the name of two or more persons under an arrangement in
2536 which all holders have concurrent interests and under which the last surviving holder is entitled to the whole

2537 of the property and includes, without limitation, property held as tenants by the entirety.

2538 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
2539 company, association, joint venture, government, governmental subdivision, agency or instrumentality,
2540 public corporation, or any other legal or commercial entity.

2541 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
2542 Islands, or any territory or insular possession subject to the jurisdiction of the United States. ~~The term "State"~~
2543 includes an *American* Indian tribe or band, or Alaskan native village, recognized by federal law or formally
2544 acknowledged by a state.

2545 "Trust" means (i) an express trust, charitable or noncharitable, with additions thereto, whenever and
2546 however created; and (ii) a trust created pursuant to a statute, judgment, or decree, that requires the trust to be
2547 administered in the manner of an express trust.