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**HOUSE BILL NO. 368**

Offered January 14, 2026

Prefiled January 12, 2026

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

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

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

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

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

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

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

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

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

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instrumentality of state government in the executive branch of government.

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

A. The Secretary of the Commonwealth shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART D.  
STATE AND TRIBAL RELATIONS.  
CHAPTER 61.  
GENERAL PROVISIONS.

**§ 2.2-6100. Definitions.**

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

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

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

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

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

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

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

A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity for meaningful and appropriate written consultation with potentially impacted federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* regarding certain major actions or permits issued by the Department. The Department shall designate an agency official to evaluate the adequacy of consultation and ensure that agency consultation practices are consistent. Actions and permits appropriate for consultation shall include the projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* based on tribal preferences, ensure that sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to fully engage in consultation regarding the proposed action, and establish procedures for the Department to provide feedback to the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to explain how their input was considered. Should feedback from the federally recognized ~~Tribal Nations in the 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.

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

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

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

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

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

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

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

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

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

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

5. The Committee shall meet at least quarterly.

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

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

D. 1. The Director, in coordination with the Chief Resilience Officer of the Commonwealth, shall establish the Virginia Flood Resilience Advisory Committee (the Committee) to assist with developing, updating, and implementing the Virginia Flood Protection Master Plan pursuant to § 10.1-602 and 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, archaeologic, 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;**  
 559 **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  
 587 ~~chairman~~ *chair* 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~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"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 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 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

defined in § 2.2-6100.

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

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

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

A. As used in this section:

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

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

"Organization" means a private nonprofit organization.

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

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Black, Indigenous, and People of Color Historic Preservation Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, any funds from the federal government, 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. Moneys in the Fund shall be used solely for the purposes set forth in this section. 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 Director.

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

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

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

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

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

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

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

A. The Department, with assistance from the Ombudsman for Tribal Consultation designated pursuant to § 2.2-401.01, shall develop policies and procedures, to the extent permitted by law, to ensure an opportunity for meaningful and appropriate written consultation with federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* regarding certain major actions or permits issued by the Department. The Department shall designate an agency official to evaluate the adequacy of consultation and ensure that agency consultation practices are consistent. Actions and permits appropriate for consultation shall include the projects and actions set forth in subsection B. The policies shall define an appropriate means of notifying federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* based on tribal preferences, ensure that sufficient information and time is provided for the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to fully engage in consultation regarding developing informed opinions about the proposed action, and establish procedures for the Department to provide feedback to the federally recognized ~~Tribal Nations in the Commonwealth~~ *tribes* to explain how their input was considered. Should feedback from the federally recognized ~~Tribal Nations in the 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.

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

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

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

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

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

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

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

E. For the purposes of this chapter, a historic district means a geographically definable area that contains a 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 15.2-4202. Definitions.**

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

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

"~~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.~~

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

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

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

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

B. The charter agreement shall set forth:

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

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

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

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

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

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

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

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

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



**prima facie evidence of intent.**

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

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

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

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

**§ 20-88.32. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### § 20-146.1. Definitions.

~~In~~ For purposes of this act:

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

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

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

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

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

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

"Initial determination" means the first child custody determination concerning a particular child.  
 "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Children excused pursuant to subsections B and D.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. A person under the age of 16 or a person who has attained the age of 65.
2. A person fishing from private real property that he owns or rents, the nonpaying guest of such person, or a member of the immediate family of such person.
3. A person fishing from a licensed recreational boat licensed pursuant to § 28.2-302.7.
4. A person fishing from a licensed headboat, charterboat, or pier licensed pursuant to § 28.2-302 or 28.2-302.8.
5. A person fishing with gear licensed by the Commission.
6. The holder of a valid recreational fishing license issued by another state or jurisdiction, upon determination of reciprocity of the license by the Commissioner.
7. Members of the following groups, as determined by the Commissioner:
  - a. Organized groups of individuals with physical or mental limitations;
  - b. Organized groups of military veterans residing in veterans' hospitals; and
  - c. School groups, grades kindergarten through 12, participating in school-sponsored trips.
8. A permanently and totally disabled person as defined in § 58.1-3217 holding a special lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10.
9. A person holding a lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10:1.
10. A person fishing from a federally owned park or reserve with boundaries extending into an adjoining state that does not require a saltwater fishing license.
11. A Virginia resident who is a member of ~~an American Indian tribe recognized by the Commonwealth~~ *a Virginia recognized tribe, as that term is defined in § 2.2-6100*, and is carrying (i) an identification card or paper signed by the chief of his tribe, (ii) a valid tribal identification card, (iii) a written confirmation through a central tribal registry, or (iv) a certification from a tribal office, stating that the person is a member of such tribe. Such card or other certification shall create a presumption of residence in Virginia that may be rebutted by proof of actual residence elsewhere.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The following is unlawful:

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

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

3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily bag or season limit during such day or season. However, any properly licensed person, or a person exempt 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



snakes resulting from the use of such devices.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Recognizing the unique relationship between the Commonwealth and certain ~~of its state-recognized Indian~~ *Virginia recognized* tribes, and notwithstanding any other provision of law, neither the Commonwealth nor any locality therein is responsible for the enforcement of the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) on any ~~Indian~~ *reservation of a Virginia recognized by the Commonwealth tribe* whereupon a ~~state-recognized Indian~~ *Virginia recognized* tribe has, by duly enacted tribal ordinance, adopted the Uniform Statewide Building Code and (i) assumed sole responsibility for 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

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

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

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

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

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

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

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

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

"Interested parties" includes the governing bodies of any counties or municipalities through which the line 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

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

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

**§ 56-576. Definitions.**

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

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

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

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

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

"Commission" means the State Corporation Commission.

"Community in which a majority of the population are people of color" means a U.S. Census tract where more than 50 percent of the population comprises 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that does 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  
 1921 otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal  
 1922 solid waste, wave motion, tides, geothermal heating and cooling systems, and geothermal electric generating  
 1923 resources and does not include energy derived from coal, oil, natural gas, or nuclear power. "Renewable  
 1924 energy" also includes the proportion of the thermal or electric energy from a facility that results from the co-  
 1925 firing of biomass. "Renewable energy" does not include waste heat from fossil-fired facilities or electricity  
 1926 generated from pumped storage but includes run-of-river generation from a combined pumped-storage and  
 1927 run-of-river facility.

1928 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat  
 1929 and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b)  
 1930 located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power  
 1931 generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and  
 1932 Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and  
 1933 improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for  
 1934 residential, commercial, institutional, or industrial purposes.

1935 "Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable  
 1936 thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the  
 1937 renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial  
 1938 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  
 1940 enhance its operating efficiency.

1941 "Retail customer" means any person that purchases retail electric energy for its own consumption at one  
 1942 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  
 1945 non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that  
 1946 occur due to measured and verified decreased consumption of electricity caused by energy efficiency  
 1947 programs approved by the Commission and implemented by the utility, less the amount by which such non-  
 1948 fuel reductions in total revenues have been mitigated through other program-related factors, including  
 1949 reductions in variable operating expenses.

1950 "Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation  
 1951 and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts,  
 1952 that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer,  
 1953 including host sites on commercial buildings, multifamily residential buildings, school or university  
 1954 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  
 1956 sunlight.

1957 "Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to  
 1958 sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not  
 1959 mean a generator that produces electric energy exclusively for its own consumption or the consumption of an  
 1960 affiliate.

1961 "Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail  
 1962 customer.

1963 "Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by electric  
 1964 utility energy efficiency and demand response programs and measures installed in that program year, as well  
 1965 as savings still being achieved by measures and programs implemented in prior years, or (ii) savings  
 1966 attributable to newly installed combined heat and power facilities, including waste heat-to-power facilities,  
 1967 and any associated reduction in transmission line losses, provided that biomass is not a fuel and the total  
 1968 efficiency, including the use of thermal energy, for eligible combined heat and power facilities must meet or  
 1969 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  
 1971 through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a  
 1972 retail customer.

1973 "Transmission system" means those facilities and equipment that are required to provide for the  
 1974 transmission of electric energy.

1975 "Waste heat to power" means a system that generates electricity through the recovery of a qualified waste  
 1976 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  
 1981 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  
 1983 source of energy that can be used to generate power to operate a highway vehicle and that is neither a motor  
 1984 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  
 1986 taxpayer. Assessments made by the Department shall be deemed to be made when a written notice of  
 1987 assessment is delivered to the taxpayer by the Department or is mailed to the taxpayer at the last known  
 1988 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  
 1990 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  
 1993 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  
 1995 used for that purpose.
- 1996 "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de  
 1997 minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in  
 1998 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  
 2001 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  
 2003 means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in another  
 2004 state in which (i) the state from which the fuel is imported does not require the seller of the fuel to collect  
 2005 motor fuel tax on the removal either at that state's rate or the rate of the destination state; (ii) the supplier of  
 2006 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  
 2008 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  
 2010 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  
 2012 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  
 2014 persons or property for compensation or hire, or any other trade or business unless the watercraft is used in an  
 2015 activity of a type generally considered entertainment, amusement, or recreation. ~~The definition shall include~~  
 2016 *"Commercial watercraft" includes* a watercraft owned by a private business and used in the conduct of its  
 2017 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,  
 2020 or member of a limited liability company, who as such officer, director, partner or member is under a duty to  
 2021 perform on behalf of the corporation, partnership, or limited liability company the tax collection, accounting,  
 2022 or remitting obligations.
- 2023 "Department" means the Department of Motor Vehicles, acting directly or through its duly authorized  
 2024 officers and agents.
- 2025 "Designated inspection site" means any state highway inspection station, weigh station, agricultural  
 2026 inspection station, mobile station, or other location designated by the Commissioner or his designee to be  
 2027 used as a fuel inspection site.
- 2028 "Destination state" means the state, territory, or foreign country to which motor fuel is directed for  
 2029 delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose  
 2030 of resale or use. ~~The term shall~~ *"Destination state" does not include a tribal reservation of any recognized*  
 2031 *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  
 2033 watercraft. ~~The term shall include~~ *"Diesel fuel" includes* undyed #1 fuel oil and undyed #2 fuel oil; but ~~shall~~  
 2034 *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  
 2036 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)  
 2039 elects to collect the tax due the Commonwealth on motor fuel that is removed at a terminal located in another  
 2040 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  
2044 foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller, and  
2045 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,  
2047 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  
2051 the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a railroad tank  
2052 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  
2055 suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have an  
2056 American Society for Testing Materials octane number of less than 75 as determined by the motor method;  
2057 (ii) a petroleum product component of gasoline, such as naphtha, reformat, or toluene; (iii) gasohol; and (iv)  
2058 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  
2060 States or its departments, agencies, and instrumentalities.

2061 "Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature,  
2062 pressure, or other adjustments.

2063 "Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2 fuel oil,  
2064 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  
2066 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  
2069 power.

2070 "Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel  
2071 supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the seller  
2072 constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or for the  
2073 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  
2075 Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For purposes of this  
2076 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  
2078 the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal located in another  
2079 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  
2081 ~~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  
2085 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  
2087 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  
2089 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  
2091 license under this chapter.

2092 "Person" means any individual; firm; cooperative; association; corporation; limited liability company;  
2093 trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in  
2094 bankruptcy; club, society or other group or combination acting as a unit; or public body, including but not  
2095 limited to the Commonwealth, any other state, and any agency, department, institution, political subdivision  
2096 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  
2098 on the records of the terminal operator. A person holds an "inventory position of motor fuel" when he has a  
2099 contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the  
2100 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  
2102 controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or an  
2103 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

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

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

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

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

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

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

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

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

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

#### § 59.1-480. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

**§ 64.2-2100. Definitions.**

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

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

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

"Conservatorship order" means an order appointing a conservator.

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

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

"Guardianship order" means an order appointing a guardian.

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

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

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

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

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

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

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

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

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

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

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

**§ 64.2-2600. Definitions.**

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

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

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

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

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

"Jointly held property" means property held in the name of two or more persons under an arrangement in 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.