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HOUSE BILL NO. 1001
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the House Committee on Education
 on February 9, 2026)

(Patron Prior to Substitute—Delegate Tran)

A BILL to amend and reenact §§ 2.2-3711, as it is currently effective and as it shall become effective, 23.1-700, 23.1-701, 23.1-702, 23.1-704, and 23.1-706 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 2 of Title 23.1 an article numbered 5, consisting of sections numbered 23.1-235, 23.1-236, and 23.1-237, relating to Commonwealth Savers Plan; State Council of Higher Education for Virginia; Virginia College Access and Affordability Scholarship Fund established; work group; report.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, as it is currently effective and as it shall become effective, 23.1-700, 23.1-701, 23.1-702, 23.1-704, and 23.1-706 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 2 of Title 23.1 an article numbered 5, consisting of sections numbered 23.1-235, 23.1-236, and 23.1-237, as follows:

§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided that the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and

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60 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public
61 institution of higher education in the Commonwealth shall be subject to public disclosure upon written
62 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"
63 means any government other than the United States government or the government of a state or a political
64 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United
65 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by
66 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of
67 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)
68 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory
69 or protectorate thereof.

70 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
71 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and
72 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private
73 sources.

74 11. Discussion or consideration of honorary degrees or special awards.

75 12. Discussion or consideration of tests, examinations, or other information used, administered, or
76 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

77 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
78 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed
79 by the member, provided that the member may request in writing that the committee meeting not be
80 conducted in a closed meeting.

81 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
82 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
83 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
84 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
85 All discussions with the applicant or its representatives may be conducted in a closed meeting.

86 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
87 activity and estimating general and nongeneral fund revenues.

88 16. Discussion or consideration of medical and mental health records subject to the exclusion in
89 subdivision 1 of § 2.2-3705.5.

90 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
91 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
92 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
93 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and
94 subdivision 11 of § 2.2-3705.7.

95 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
96 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
97 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
98 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
99 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

100 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
101 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
102 service officials concerning actions taken to respond to such matters or a related threat to public safety;
103 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
104 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
105 information technology system, or software program; or discussion of reports or plans related to the security
106 of any governmental facility, building or structure, or the safety of persons using such facility, building or
107 structure.

108 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
109 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
110 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
111 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
112 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
113 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
114 other ownership interest in an entity, where such security or ownership interest is not traded on a
115 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
116 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
117 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
118 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
119 confidentiality, of the future value of such ownership interest or the future financial performance of the
120 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
121 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University

122 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
 123 disclosure of information relating to the identity of any investment held, the amount invested or the present
 124 value of such investment.

125 21. Those portions of meetings in which individual child death cases are discussed by the State Child
 126 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
 127 child death cases are discussed by a regional or local child fatality review team established pursuant to
 128 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
 129 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
 130 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
 131 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
 132 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
 133 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
 134 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
 135 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of
 136 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review
 137 Committee established pursuant to § 37.2-314.1.

138 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
 139 University, as the case may be, and those portions of meetings of any persons to whom management
 140 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
 141 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
 142 business-related information pertaining to the operations of the University of Virginia Medical Center or the
 143 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
 144 development or marketing strategies and activities with existing or future joint venturers, partners, or other
 145 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
 146 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
 147 health care, if disclosure of such information would adversely affect the competitive position of the
 148 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
 149 University, as the case may be.

150 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or
 151 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
 152 disposition by the Authority of real property, equipment, or technology software or hardware and related
 153 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of
 154 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and
 155 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of
 156 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of
 157 the Authority; and members of the Authority's medical and teaching staffs and qualifications for
 158 appointments thereto.

159 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the
 160 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who
 161 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

162 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal
 163 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf
 164 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or
 165 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

166 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
 167 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
 168 § 56-484.12, related to the provision of wireless E-911 service.

169 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
 170 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy
 171 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or
 172 meetings of health regulatory boards or conference committees of such boards to consider settlement
 173 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by
 174 either of the parties.

175 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
 176 by a responsible public entity or an affected locality or public entity, as those terms are defined in
 177 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
 178 public entity concerning such records.

179 29. Discussion of the award of a public contract involving the expenditure of public funds, including
 180 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in
 181 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

182 30. Discussion or consideration of grant or loan application information subject to the exclusion in
 183 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

184 31. Discussion or consideration by the Commitment Review Committee of information subject to the
185 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
186 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

187 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
188 held by a local public body providing certain telecommunication services or cable television services and
189 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
190 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

191 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
192 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
193 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

194 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
195 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

196 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
197 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

198 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
199 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
200 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
201 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
202 scholarship awards.

203 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in
204 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
205 Authority.

206 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
207 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
208 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan
209 acting pursuant to *subdivision C 2 of § 23.1-701* or § 23.1-706, or by the Commonwealth Savers Plan's
210 Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in
211 subdivision 24 of § 2.2-3705.7.

212 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
213 related to economic development.

214 40. Discussion or consideration by the Board of Education of information relating to the denial,
215 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

216 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
217 executive order for the purpose of studying and making recommendations regarding preventing closure or
218 realignment of federal military and national security installations and facilities located in Virginia and
219 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
220 local governing body, during which there is discussion of information subject to the exclusion in subdivision
221 8 of § 2.2-3705.2.

222 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
223 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
224 information of donors.

225 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
226 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained
227 in grant applications.

228 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
229 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for
230 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
231 information of a private entity provided to the Authority.

232 45. Discussion or consideration of personal and proprietary information related to the resource
233 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection
234 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
235 information that has been certified for release by the person who is the subject of the information or
236 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
237 or is the subject of, the information.

238 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
239 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of
240 applicants for licenses and permits and of licensees and permittees.

241 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion
242 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)
243 of Chapter 22.

244 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
245 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity

246 Board.

247 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
 248 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
 249 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
 250 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
 251 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
 252 pursuant to § 15.2-1627.6.

253 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
 254 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
 255 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
 256 of § 2.2-3705.7.

257 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
 258 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
 259 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the
 260 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

261 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
 262 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
 263 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

264 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
 265 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
 266 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
 267 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

268 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
 269 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting
 270 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
 271 disclosure under subdivision 1 of § 2.2-3705.3.

272 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of
 273 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

274 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
 275 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting
 276 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that
 277 shall have its substance reasonably identified in the open meeting.

278 C. Public officers improperly selected due to the failure of the public body to comply with the other
 279 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
 280 obtain notice of the legal defect in their election.

281 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
 282 public bodies, or their representatives, but these conferences shall be subject to the same procedures for
 283 holding closed meetings as are applicable to any other public body.

284 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
 285 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
 286 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial
 287 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial
 288 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.
 289 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the
 290 actual date of the board's authorization of the sale or issuance of such bonds.

291 **§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.**

292 A. Public bodies may hold closed meetings only for the following purposes:

293 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
 294 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
 295 officers, appointees, or employees of any public body; and evaluation of performance of departments or
 296 schools of public institutions of higher education where such evaluation will necessarily involve discussion of
 297 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting
 298 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some
 299 student and the student involved in the matter is present, provided that the teacher makes a written request to
 300 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be
 301 construed to authorize a closed meeting by a local governing body or an elected school board to discuss
 302 compensation matters that affect the membership of such body or board collectively.

303 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
 304 involve the disclosure of information contained in a scholastic record concerning any student of any public
 305 institution of higher education in the Commonwealth or any state school system. However, any such student,
 306 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be
 307 present during the taking of testimony or presentation of evidence at a closed meeting, if such student,

308 parents, or guardians so request in writing and such request is submitted to the presiding officer of the
309 appropriate board.

310 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition
311 of publicly held real property, where discussion in an open meeting would adversely affect the bargaining
312 position or negotiating strategy of the public body.

313 4. The protection of the privacy of individuals in personal matters not related to public business.

314 5. Discussion concerning a prospective business or industry or the expansion of an existing business or
315 industry where no previous announcement has been made of the business' or industry's interest in locating or
316 expanding its facilities in the community.

317 6. Discussion or consideration of the investment of public funds where competition or bargaining is
318 involved, where, if made public initially, the financial interest of the governmental unit would be adversely
319 affected.

320 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or
321 probable litigation, where such consultation or briefing in open meeting would adversely affect the
322 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation"
323 means litigation that has been specifically threatened or on which the public body or its legal counsel has a
324 reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall
325 be construed to permit the closure of a meeting merely because an attorney representing the public body is in
326 attendance or is consulted on a matter.

327 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters
328 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to
329 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is
330 consulted on a matter.

331 9. Discussion or consideration by governing boards of public institutions of higher education of matters
332 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be
333 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and
334 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public
335 institution of higher education in the Commonwealth shall be subject to public disclosure upon written
336 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"
337 means any government other than the United States government or the government of a state or a political
338 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United
339 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by
340 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of
341 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)
342 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory
343 or protectorate thereof.

344 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
345 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and
346 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private
347 sources.

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350 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

351 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
352 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed
353 by the member, provided that the member may request in writing that the committee meeting not be
354 conducted in a closed meeting.

355 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
356 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
357 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
358 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
359 All discussions with the applicant or its representatives may be conducted in a closed meeting.

360 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
361 activity and estimating general and nongeneral fund revenues.

362 16. Discussion or consideration of medical and mental health records subject to the exclusion in
363 subdivision 1 of § 2.2-3705.5.

364 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
365 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
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368 subdivision 11 of § 2.2-3705.7.

369 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses

370 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
 371 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
 372 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
 373 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

374 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
 375 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
 376 service officials concerning actions taken to respond to such matters or a related threat to public safety;
 377 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
 378 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
 379 information technology system, or software program; or discussion of reports or plans related to the security
 380 of any governmental facility, building or structure, or the safety of persons using such facility, building or
 381 structure.

382 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
 383 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
 384 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
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 386 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
 387 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
 388 other ownership interest in an entity, where such security or ownership interest is not traded on a
 389 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
 390 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
 391 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
 392 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
 393 confidentiality, of the future value of such ownership interest or the future financial performance of the
 394 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
 395 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
 396 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
 397 disclosure of information relating to the identity of any investment held, the amount invested or the present
 398 value of such investment.

399 21. Those portions of meetings in which individual child death cases are discussed by the State Child
 400 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
 401 child death cases are discussed by a regional or local child fatality review team established pursuant to
 402 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
 403 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
 404 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
 405 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
 406 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
 407 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
 408 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
 409 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of
 410 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review
 411 Committee established pursuant to § 37.2-314.1.

412 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
 413 University, as the case may be, and those portions of meetings of any persons to whom management
 414 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
 415 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
 416 business-related information pertaining to the operations of the University of Virginia Medical Center or the
 417 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
 418 development or marketing strategies and activities with existing or future joint venturers, partners, or other
 419 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
 420 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
 421 health care, if disclosure of such information would adversely affect the competitive position of the
 422 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
 423 University, as the case may be.

424 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or
 425 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
 426 disposition by the Authority of real property, equipment, or technology software or hardware and related
 427 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of
 428 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and
 429 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of
 430 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of
 431 the Authority; and members of the Authority's medical and teaching staffs and qualifications for

432 appointments thereto.

433 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the
434 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who
435 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

436 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal
437 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf
438 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or
439 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

440 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
441 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
442 § 56-484.12, related to the provision of wireless E-911 service.

443 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
444 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy
445 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or
446 meetings of health regulatory boards or conference committees of such boards to consider settlement
447 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by
448 either of the parties.

449 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
450 by a responsible public entity or an affected locality or public entity, as those terms are defined in
451 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
452 public entity concerning such records.

453 29. Discussion of the award of a public contract involving the expenditure of public funds, including
454 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in
455 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

456 30. Discussion or consideration of grant or loan application information subject to the exclusion in
457 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

458 31. Discussion or consideration by the Commitment Review Committee of information subject to the
459 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
460 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

461 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
462 held by a local public body providing certain telecommunication services or cable television services and
463 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
464 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

465 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
466 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
467 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

468 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
469 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections
470 of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

471 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
472 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

473 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
474 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
475 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
476 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
477 scholarship awards.

478 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in
479 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
480 Authority.

481 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
482 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
483 any local retirement system; acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan
484 acting pursuant to *subdivision C 2 of § 23.1-701* or § 23.1-706, or by the Commonwealth Savers Plan's
485 Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in
486 subdivision 24 of § 2.2-3705.7.

487 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
488 related to economic development.

489 40. Discussion or consideration by the Board of Education of information relating to the denial,
490 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

491 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
492 executive order for the purpose of studying and making recommendations regarding preventing closure or
493 realignment of federal military and national security installations and facilities located in Virginia and

494 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
 495 local governing body, during which there is discussion of information subject to the exclusion in subdivision
 496 8 of § 2.2-3705.2.

497 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
 498 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
 499 information of donors.

500 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
 501 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained
 502 in grant applications.

503 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
 504 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for
 505 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
 506 information of a private entity provided to the Authority.

507 45. Discussion or consideration of personal and proprietary information related to the resource
 508 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection
 509 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
 510 information that has been certified for release by the person who is the subject of the information or
 511 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
 512 or is the subject of, the information.

513 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
 514 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of
 515 applicants for licenses and permits and of licensees and permittees.

516 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion
 517 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)
 518 of Chapter 22.

519 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
 520 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
 521 Board.

522 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
 523 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
 524 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
 525 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
 526 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
 527 pursuant to § 15.2-1627.6.

528 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
 529 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
 530 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
 531 of § 2.2-3705.7.

532 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
 533 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
 534 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the
 535 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

536 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
 537 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
 538 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

539 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
 540 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
 541 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
 542 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

543 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
 544 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting
 545 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
 546 disclosure under subdivision 1 of § 2.2-3705.3.

547 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of
 548 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

549 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
 550 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting
 551 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that
 552 shall have its substance reasonably identified in the open meeting.

553 C. Public officers improperly selected due to the failure of the public body to comply with the other
 554 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
 555 obtain notice of the legal defect in their election.

556 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
 557 public bodies, or their representatives, but these conferences shall be subject to the same procedures for
 558 holding closed meetings as are applicable to any other public body.

559 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
 560 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
 561 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial
 562 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial
 563 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.
 564 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the
 565 actual date of the board's authorization of the sale or issuance of such bonds.

566 *Article 5.*

567 *Virginia College Access and Affordability Scholarship Fund.*

568 **§ 23.1-235. Definitions.**

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

570 *"Access Fund Scholar" means a person who is (i) domiciled in the Commonwealth and (ii) a senior in*
 571 *high school, or received a high school diploma or GED, or completed approved homeschool education, who*
 572 *has been accepted or enrolled in an eligible education program and is a recipient of a scholarship through*
 573 *the Virginia College Access and Affordability Scholarship Program pursuant to § 23.1-237.*

574 *"Access programs" means college access resources or programs to assist low-income students, first*
 575 *generation college students, students from underrepresented communities, or other at-risk students with their*
 576 *introduction to the higher education system in the Commonwealth, college applications, financial aid*
 577 *applications, and resources assisting with a successful transition from high school to college.*

578 *"DB529 Fund" means the same as that term is defined in § 23.1-700.*

579 *"Eligible education program" means (i) an undergraduate degree program at (a) a comprehensive*
 580 *community college in the Commonwealth or Richard Bland College; (b) another public institution of higher*
 581 *education in the Commonwealth; or (c) an accredited nonprofit independent or private institution of higher*
 582 *education in the Commonwealth that is eligible to participate in the Tuition Assistance Grant Program*
 583 *established pursuant to Article 5 (§ 23.1-628 et seq.) of Chapter 6 or (ii) a noncredit workforce training*
 584 *program at a Virginia community college that leads to a certificate in a high-demand occupation identified*
 585 *by the Virginia Office of Education Economics or a regional or local workforce board.*

586 *"Plan" means the Commonwealth Savers Plan.*

587 *"Program" means the Virginia College Access and Affordability Scholarship Program established by the*
 588 *Council under the provisions of this article.*

589 *"Virginia College Access and Affordability Scholarship Fund" or "Access Fund" means the same as that*
 590 *term is defined in § 23.1-700.*

591 **§ 23.1-236. Virginia College Access and Affordability Scholarship Program; report.**

592 A. The Council shall establish the Virginia College Access and Affordability Scholarship Program to
 593 provide free access programs and scholarships to students in eligible education programs. The Council shall
 594 develop policies and guidelines necessary to implement and administer the Program, including policies and
 595 guidelines regarding free access program eligibility, student eligibility, application procedures, criteria for
 596 selecting applicants for scholarships, scholarship amounts, requirements to maintain scholarships, and any
 597 other requirements deemed necessary for the administration of the Program. Scholarships awarded by the
 598 Council may be for full or partial tuition and may also cover, in whole or in part, the costs of fees, room and
 599 board, housing, books, class equipment fees, other eligible education program fees, and child care for the
 600 Access Fund Scholar's dependents on terms and conditions determined by the Council. Each scholarship
 601 awarded to an Access Fund Scholar shall be available throughout the duration of his enrollment in the
 602 eligible education program, but for no more than 12 academic terms, roughly six years, or an equivalent
 603 thereof, and may be awarded in installments so long as such Access Fund Scholar (i) meets satisfactory
 604 academic progress requirements, as determined by an institution described in clause (i) of the definition of
 605 "eligible education program" in § 23.1-235, or (ii) achieves satisfactory progress toward a workforce
 606 credential, as determined by the supervisor in a noncredit workforce training program described in clause
 607 (ii) of the definition of "eligible education program" in § 23.1-235.

608 B. The Program shall provide scholarships only to an Access Fund Scholar who enrolls, or plans to
 609 enroll, in an eligible educational program. An Access Fund Scholar who receives a scholarship pursuant to
 610 this section shall lose eligibility for such scholarship if he enrolls at an institution of higher education or
 611 workforce training program that is not an eligible education program.

612 C. The Program shall be funded only by income from investments of deposits to the Access Fund.
 613 Distributions from the Access Fund for the Program shall be allocated as follows:

614 1. Up to five percent shall be allocated to the Council for the administration of the Program and the
 615 Access Fund.

616 2. Up to five percent shall be allocated to provide free access programs as set forth in this article.

617 3. All other funds shall be allocated for scholarships for Access Fund Scholars as set forth in this article.

618 *D. The Council shall develop and establish an online application portal for the Program. Once developed,*
 619 *the existence of such application and the Program shall be disseminated across the Commonwealth in a*
 620 *manner reasonably expected to inform the public of the Program and its availability. The Council shall also*
 621 *consult with representatives from each eligible education program on their particular needs in the*
 622 *administration of the Program and Access Fund.*

623 *E. The Council, in consultation with the Plan, shall report annually to the General Assembly on its*
 624 *administration of this article no later than December 31.*

625 **§ 23.1-700. Definitions.**

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

627 "ABLE savings trust account" means an account established pursuant to this chapter to assist individuals
 628 and families to save private funds to support individuals with disabilities to maintain health, independence,
 629 and quality of life, with such account used to apply distributions for qualified disability expenses for an
 630 eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as
 631 amended, or other applicable federal law.

632 "*Access and Affordability Program*" or "*the Program*" means the Virginia College Access and
 633 *Affordability Scholarship Program created by § 23.1-237.*

634 "Board" means the governing board of the Plan.

635 "College savings trust account" means an account established pursuant to this chapter to assist individuals
 636 and families to enhance the accessibility and affordability of higher education, with such account used to
 637 apply distributions from the account toward qualified higher education expenses, as that term is defined in §
 638 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

639 "*Commonwealth Savers Plan Fund*" or "*the Fund*" means the special nonreverting fund established
 640 *pursuant to subdivision C 1 of § 23.1-701.*

641 "Contributor" means a person who contributes money to a savings trust account established pursuant to
 642 this chapter on behalf of a qualified beneficiary and who is listed as the owner of the savings trust account.

643 "*DB529 Fund*" means that portion of the Fund, and any earnings thereon, allocated by the Plan to a
 644 *subfund administered by the Plan to hold the assets of prepaid tuition contracts, referred to as the Defined*
 645 *Benefit 529 Program, in trust to meet contractual obligations and for any deposits or distributions to the*
 646 *Access Fund.*

647 "Non-Virginia public and accredited nonprofit independent or private institutions of higher education"
 648 means public and accredited nonprofit independent or private institutions of higher education that are located
 649 outside the Commonwealth.

650 "Plan" means the Commonwealth Savers Plan.

651 "Prepaid tuition contract" means the contract or account entered into by the board and a purchaser
 652 pursuant to this chapter for the advance payment of tuition at a fixed, guaranteed level for a qualified
 653 beneficiary to attend any public institution of higher education to which the qualified beneficiary is admitted.

654 "Public institution of higher education" has the same meaning as provided in § 23.1-100.

655 "Purchaser" means a person who makes or is obligated to make advance payments in accordance with a
 656 prepaid tuition contract and who is listed as the owner of the prepaid tuition contract.

657 "Qualified beneficiary" or "beneficiary" means (i) a resident of the Commonwealth, as determined by the
 658 board, who is the beneficiary of a prepaid tuition contract and who may apply advance tuition payments to
 659 tuition as set forth in this chapter; (ii) a beneficiary of a prepaid tuition contract purchased by a resident of the
 660 Commonwealth, as determined by the board, who may apply advance tuition payments to tuition as set forth
 661 in this chapter; or (iii) a beneficiary of a savings trust account established pursuant to this chapter.

662 "Savings trust account" means an ABLE savings trust account or a college savings trust account.

663 "Savings trust agreement" means the agreement entered into by the board and a contributor that
 664 establishes a savings trust account.

665 "Tuition" means the quarter, semester, or term charges imposed for undergraduate tuition by any public
 666 institution of higher education and all mandatory fees required as a condition of enrollment of all students. At
 667 the discretion of the board, a beneficiary may apply benefits under a prepaid tuition contract and distributions
 668 from a college savings trust account (i) toward graduate-level tuition and (ii) toward qualified higher
 669 education expenses, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal
 670 Revenue Code of 1986, as amended.

671 "*Virginia College Access and Affordability Scholarship Fund*" or "*Access Fund*" means that portion of the
 672 *Fund, any earnings thereon, and any deposits, distributions, or transfers from the DB529 Fund, required to*
 673 *be allocated by the Plan to a subfund administered by the Plan as required by this chapter and in accordance*
 674 *with Article 5 (§ 23.1-235 et seq.) of Chapter 2. Moneys in the Access Fund shall be used solely for the*
 675 *purposes of (i) the Program and (ii) any investments of dedicated Access Fund assets for future support of the*
 676 *Program. The Plan, in consultation with the Council, shall manage the assets of the Access Fund and any*
 677 *investments of such deposits in a manner that maximizes returns and income available for the Program. The*
 678 *Council shall have sole authority over the administration of the Program and the approvals of disbursements*
 679 *of income from the Access Fund in the form of free access programs and scholarships as set forth in this*

680 *article.*

681 **§ 23.1-701. Plan established; moneys; governing board.**

682 A. To enhance the accessibility and affordability of higher education for all citizens of the
683 Commonwealth, and assist families and individuals to save for qualified disability expenses, the
684 Commonwealth Savers Plan is established as a body politic and corporate and an independent agency of the
685 Commonwealth.

686 B. Moneys of the Plan that are contributions to savings trust accounts made pursuant to this chapter,
687 except as otherwise authorized or provided in this chapter, shall be deposited as soon as practicable in a
688 separate account or separate accounts in banks or trust companies organized under the laws of the
689 Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law,
690 savings institutions organized under the laws of the Commonwealth or the United States. The savings
691 program moneys in such accounts shall be paid out on checks, drafts payable on demand, electronic wire
692 transfers, or other means authorized by officers or employees of the Plan.

693 C. 1. All other moneys of the Plan, including payments received pursuant to prepaid tuition contracts,
694 bequests, endowments, grants from the United States government or its agencies or instrumentalities, and any
695 other available public or private sources of funds shall be first deposited in the state treasury in a special
696 nonreverting fund (the Fund). Such moneys shall then be deposited as soon as practicable in a separate
697 account or separate accounts in banks or trust companies organized under the laws of the Commonwealth,
698 national banking associations, federal home loan banks, or, to the extent permitted by law, savings
699 institutions organized under the laws of the Commonwealth or the United States. Benefits relating to prepaid
700 tuition contracts and Plan operating expenses shall be paid from the Fund. Any moneys remaining in the
701 Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and
702 income earned from the investment of such funds shall remain in the Fund and be credited to it. *The Fund*
703 *shall include the DB529 Fund and the Access Fund, each established as a subfund of the Fund.*

704 2. a. *The Plan shall make deposits from the DB529 Fund into the Access Fund (i) in annual increments*
705 *over a period of not less than three fiscal years and (ii) in amounts that would maintain or exceed an annual*
706 *funded status of current and future actuarial surplus of 125 percent.*

707 b. *Within 45 days after the actuarial valuation performed in accordance with §§ 23.1-706 and 23.1-710*
708 *for each fiscal year is finalized, but by no later than December 31 of the subsequent fiscal year, the Plan*
709 *shall submit to the Chairs of the House Committees on Appropriations and Education and the Senate*
710 *Committees on Finance and Appropriations and Education and Health a report on the current funded status*
711 *of the DB529 Fund and the recommendation of the Plan on amounts to deposit from the DB529 Fund into the*
712 *Access Fund for each fiscal year. In making such recommendations, the Plan shall determine whether (i) the*
713 *funded status of the DB529 Fund meets or exceeds 125 percent, (ii) any recommended transfers would violate*
714 *the standard of care specified in § 23.1-706, (iii) any recommended transfers would result in insufficient*
715 *funding to ensure the actuarial soundness of the Plan, or (iv) any recommended transfers would jeopardize*
716 *the Plan's ability to meet any obligation incurred under the provisions of this chapter. Any recommendation*
717 *shall only follow a review of any planned transfers using updated actuarial and liquidity modeling by the*
718 *Audit and Actuarial Committee pursuant to § 23.1-702.*

719 c. *The Joint Legislative Audit and Review Commission shall no less than biennially complete an*
720 *independent evaluation and risk assessment of the Plan's risk assessment model, assumptions, and other*
721 *measures employed by the Plan related to the DB529 Fund and the Access Fund, including (i) the financial*
722 *stability and ability to meet current and future obligations in each fund, (ii) an assessment of each*
723 *recommendation made by the Plan pursuant to this subdivision 2, and (iii) whether such recommendations*
724 *are for appropriate amounts to fully support the Program.*

725 D. The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition
726 contract benefits and, in connection with such system, open and maintain a separate account or separate
727 accounts in banks or trust companies organized under the laws of the Commonwealth, national banking
728 associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under
729 the laws of the Commonwealth or the United States. Such independent disbursement system and any related
730 procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall
731 be construed to relieve the Plan of its duty to provide prepaid tuition contract benefit transactions to the
732 Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802. A
733 *member of the Board shall be indemnified from any liability arising from any action for the administration of*
734 *deposits or rebates required pursuant to subdivision C 2.*

735 E. The Plan shall be administered by an 11-member board that consists of (i) the Executive Director of the
736 Council or his designee, the Chancellor of the Virginia Community College System or his designee, the State
737 Treasurer or his designee, and the State Comptroller or his designee, all of whom shall serve ex officio with
738 voting privileges, and (ii) seven nonlegislative citizen members, four of whom shall be appointed by the
739 Governor, one of whom shall be appointed by the Senate Committee on Rules, two of whom shall be
740 appointed by the Speaker of the House of Delegates, and all of whom shall have significant experience in
741 finance, accounting, law, investment management, higher education, or disability advocacy. In addition, at

742 least one of the nonlegislative citizen members shall have expertise in the management and administration of
743 private defined contribution retirement plans.

744 F. Members appointed to the board shall serve terms of four years. Vacancies occurring other than by
745 expiration of a term shall be filled for the unexpired term. No member appointed to the board shall serve
746 more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is
747 eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

748 G. Ex officio members of the board shall serve terms coincident with their terms of office.

749 H. Members of the board shall receive no compensation but shall be reimbursed for actual expenses
750 incurred in the performance of their duties.

751 I. The board shall elect from its membership a chairman and a vice-chairman annually.

752 J. A majority of the members of the board shall constitute a quorum.

753 **§ 23.1-702. Advisory committees to the board; membership; terms; qualifications; duties.**

754 A. To assist the board in fulfilling its fiduciary duty as trustee of the funds of the Plan and to assist the
755 chief executive officer in directing, managing, and administering the Plan's assets, the board shall appoint an
756 Investment Advisory Committee to provide sophisticated, objective, and prudent investment advice and
757 direction.

758 1. Members of the Investment Advisory Committee shall demonstrate extensive experience in any one or
759 more of the following areas: domestic or international equity or fixed-income securities, cash management,
760 alternative investments, institutional real estate investments, or managed futures.

761 2. The Investment Advisory Committee shall (i) review, evaluate, and monitor investments and
762 investment opportunities; (ii) make appropriate recommendations to the board about such investments and
763 investment opportunities; (iii) make appropriate recommendations to the board about overall asset allocation;
764 and (iv) perform such other duties as the board may delegate to the Investment Advisory Committee.

765 B. To assist the board in fulfilling its responsibilities relating to the integrity of the Plan's financial
766 statements, financial reporting process, ~~and~~ systems of internal accounting and financial controls, *and*
767 *compliance with subdivision C 2 of § 23.1-701*, the board shall appoint an Audit and Actuarial Committee.

768 1. Members of the Audit and Actuarial Committee shall demonstrate an understanding of generally
769 accepted accounting principles, generally accepted auditing standards, enterprise risk management principles,
770 and financial statements, and evidence an ability to assess the general application of such principles to the
771 Plan's activities. The members should have experience in preparing, auditing, analyzing, or evaluating
772 financial statements of the same complexity as those of the Plan, and an understanding of internal controls
773 and procedures for financial reporting.

774 2. In order to establish and maintain its effectiveness and independence, the following individuals shall
775 not be members of the Audit and Actuarial Committee: (i) current Plan employees; (ii) individuals who have
776 been employees of the Plan in any of the prior three fiscal years; and (iii) immediate family members of an
777 individual currently employed as an officer of the Plan or who has been employed in such a capacity within
778 the past three fiscal years.

779 3. The Audit and Actuarial Committee shall (i) review, examine, and monitor the Plan's accounting and
780 financial reporting processes and systems of internal controls; (ii) review and examine financial statements
781 and financial disclosures and discuss any findings with the Plan's senior management; (iii) make appropriate
782 recommendations and reports to the board; (iv) monitor the Plan's external audit function by (a) participating
783 in the retention, review, and discharge of independent auditors; (b) discussing the Plan's financial statements
784 and accounting policies with independent auditors; and (c) reviewing the independence of independent
785 auditors; ~~and~~ (v) *review, examine, and monitor the financial soundness of the DB529 Fund, the Access Fund,*
786 *and any planned transfers from the DB529 Fund into the Access Fund pursuant to subdivision C 2 of*
787 *§ 23.1-701; and (vi) perform such other duties as the board may delegate to the Audit and Actuarial*
788 *Committee.*

789 C. The board may appoint such other advisory committees as it deems necessary and shall set the
790 qualifications for members of any such advisory committee by resolution.

791 D. Advisory committee members shall serve at the pleasure of the board and may be removed by a
792 majority vote of the board.

793 E. Members of advisory committees shall receive no compensation but shall be reimbursed for actual
794 expenses incurred in the performance of their duties.

795 F. The disclosure requirements of subsection B of § 2.2-3114 shall apply to each member of any advisory
796 committee established pursuant to this section who is not also a board member.

797 G. The recommendations of an advisory committee are not binding upon the board or the designee
798 appointed by the board to make investment decisions pursuant to subsections A and B of § 23.1-706.

799 **§ 23.1-704. Powers and duties of the board.**

800 The board shall:

801 1. Administer the Plan established by this chapter;

802 2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in
803 § 23.1-700, at a fixed, guaranteed level for application at a public institution of higher education; (ii)

804 contributions to college savings trust accounts established pursuant to this chapter on behalf of a qualified
805 beneficiary in order to apply distributions from the account toward qualified higher education expenses, as
806 that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal
807 law; and (iii) contributions to ABLE savings trust accounts established pursuant to this chapter on behalf of a
808 qualified beneficiary in order to apply distributions from the account toward qualified disability expenses for
809 an eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as
810 amended, or other applicable federal law;

811 3. Invest moneys in the Plan in any instruments, obligations, securities, or property deemed appropriate by
812 the board;

813 4. Develop requirements, procedures, and guidelines regarding prepaid tuition contracts and savings trust
814 accounts, including residency and other eligibility requirements; the number of participants in the Plan; the
815 termination, withdrawal, or transfer of payments under a prepaid tuition contract or savings trust account;
816 time limitations for the use of tuition benefits or savings trust account distributions; and payment schedules;

817 5. Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting
818 services and contracts with other states to provide savings trust accounts for residents of contracting states;

819 6. Procure insurance as determined appropriate by the board (i) against any loss in connection with the
820 Plan's property, assets, or activities and (ii) indemnifying board members from personal loss or accountability
821 from liability arising from any action or inaction as a board member;

822 7. Make arrangements with public institutions of higher education to fulfill obligations under prepaid
823 tuition contracts and apply college savings trust account distributions, including (i) payment from the Plan of
824 the appropriate amount of tuition on behalf of a qualified beneficiary of a prepaid tuition contract to the
825 institution to which the beneficiary is admitted and at which the beneficiary is enrolled and (ii) application of
826 such benefits toward graduate-level tuition and toward qualified higher education expenses, as that term is
827 defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as
828 amended, as determined by the board in its sole discretion;

829 8. ~~Develop~~ *Before July 1, 2026, develop* and implement scholarship or matching grant programs, or both,
830 as the board may deem appropriate, to further its goal of making higher education more affordable and
831 accessible to all citizens of the Commonwealth. *On and after July 1, 2026, the board shall not develop,*
832 *implement, or offer any such scholarship or matching grant programs or any other programs similar to*
833 *access programs, as defined in § 23.1-235, except for existing program offerings made available through*
834 *SOAR Virginia and GEAR UP Virginia, as administered by the Plan;*

835 9. Apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to
836 carry out its objectives;

837 10. Adopt regulations and procedures and perform any act or function consistent with the purposes of this
838 chapter; and

839 11. Reimburse, at its option, all or part of the cost of employing legal counsel and such other costs as are
840 demonstrated to have been reasonably necessary for the defense of any board member, officer, or employee
841 of the Plan upon the acquittal, dismissal of charges, nolle prosequi, or any other final disposition concluding
842 the innocence of such member, officer, or employee who is brought before any regulatory body, summoned
843 before any grand jury, investigated by any law-enforcement agency, arrested, indicted, or otherwise
844 prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties that
845 alleges a violation of state or federal securities laws. The board shall provide for the payment of such legal
846 fees and expenses out of funds appropriated or otherwise available to the board.

847 **§ 23.1-706. Standard of care; investment and administration of the Plan.**

848 A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the
849 benefit of the Plan, the board, and any person, investment manager, or committee to whom the board
850 delegates any of its investment authority, shall act as trustee and shall exercise the judgment of care under the
851 circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the
852 management of their own affairs, not in regard to speculation but to the permanent disposition of funds,
853 considering the probable income and the probable safety of their capital.

854 If the annual accounting and audit required by § 23.1-710 reveal that there are insufficient funds to ensure
855 the actuarial soundness of the Plan, the board may adjust the terms of subsequent prepaid tuition contracts,
856 arrange refunds for current purchasers to ensure actuarial soundness, or take such other action the board
857 deems appropriate.

858 B. ~~The~~ *Except as provided in subdivision C 2 of § 23.1-701,* assets of the Plan shall be preserved,
859 invested, and expended solely pursuant to and for the purposes of this chapter and shall not be loaned or
860 otherwise transferred or used by the Commonwealth for any other purpose. Within the standard of care set
861 forth in subsection A, the board and any person, investment manager, or committee to whom the board
862 delegates any of its investment authority, may acquire and retain any kind of property and any kind of
863 investment, including (i) debentures and other corporate obligations of foreign or domestic corporations; (ii)
864 common or preferred stocks traded on foreign or domestic stock exchanges; (iii) not less than all of the stock
865 or 100 percent ownership of a corporation or other entity organized by the board under the laws of the

866 Commonwealth for the purposes of acquiring and retaining real property that the board may acquire and
 867 retain under this chapter; and (iv) securities of any open-end or closed-end management type investment
 868 company or investment trust registered under the federal Investment Company Act of 1940, as amended,
 869 including investment companies or investment trusts that, in turn, invest in the securities of such investment
 870 companies or investment trusts that persons of prudence, discretion, and intelligence acquire or retain for
 871 their own account. The board may retain property properly acquired without time limitation and without
 872 regard to its suitability for original purchase.

873 All provisions of this subsection shall also apply to the portion of the Plan assets attributable to savings
 874 trust account contributions and the earnings on such contributions.

875 C. The selection of services relating to the operation and administration of the Plan, including contracts or
 876 agreements for the management, purchase, or sale of authorized investments or actuarial, recordkeeping, or
 877 consulting services, are governed by the standard of care set forth in subsection A and are not subject to the
 878 provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

879 D. No board member or person, investment manager, or committee to whom the board delegates any of its
 880 investment authority who acts in accordance with the standard of care set forth in subsection A shall be held
 881 personally liable for losses suffered by the Plan on investments made pursuant to this chapter.

882 E. To the extent necessary to lawfully administer the Plan and in order to comply with federal, state, and
 883 local tax reporting requirements, the Plan may obtain all necessary social security account or tax
 884 identification numbers and such other data as the Plan deems necessary for such purposes, whether from a
 885 contributor, a purchaser, or another state agency.

886 F. This section shall not be construed to prohibit the Plan's investment, by purchase or otherwise, in
 887 bonds, notes, or other obligations of the Commonwealth or its agencies and instrumentalities.

888 **2. That the State Council of Higher Education for Virginia (SCHEV) shall convene a work group to**
 889 **make recommendations on the implementation of the Virginia College Access and Affordability**
 890 **Scholarship Program established in § 23.1-236 of the Code of Virginia, as created by this act, and the**
 891 **administration of funds available to SCHEV from distributions from the Access Fund, as defined in**
 892 **§ 23.1-700 of the Code of Virginia, as amended by this act. The work group shall consist of individuals**
 893 **with higher education experience and include (i) a representative of the Virginia Community College**
 894 **System; (ii) a financial aid director or equivalent position from a public institution of higher education**
 895 **in the Commonwealth or an accredited nonprofit independent or private institution of higher**
 896 **education in the Commonwealth that is eligible to participate in the Tuition Assistance Grant Program**
 897 **established pursuant to Article 5 (§ 23.1-628 et seq.) of Chapter 6 of Title 23.1 of the Code of Virginia;**
 898 **(iii) an enrollment management director or equivalent position from a public institution of higher**
 899 **education in the Commonwealth or an accredited nonprofit independent or private institution of**
 900 **higher education in the Commonwealth that is eligible to participate in the Tuition Assistance Grant**
 901 **Program established pursuant to Article 5 (§ 23.1-628 et seq.) of Chapter 6 of Title 23.1 of the Code of**
 902 **Virginia; (iv) a representative of Virginia's historically black colleges and universities; (v) a**
 903 **representative of the Virginia Department of Education; (vi) representatives of the public primary and**
 904 **secondary education system, of whom one shall be a high school college counselor; and (vii) at least one**
 905 **representative of a community organization that provides access programs, as that term is defined in**
 906 **§ 23.1-235 of the Code of Virginia, as created by this act. In its recommendations, the work group shall**
 907 **consider factors that will be relevant to determining total scholarship awards for each student, such as**
 908 **expected family contribution and regional cost of living. The recommendations shall be submitted to**
 909 **the Chairs of the House Committees on Education and Appropriations and the Senate Committees on**
 910 **Education and Health and Finance and Appropriations by November 1, 2026.**

911 **3. That, notwithstanding any other provision of law, the Commonwealth Savers Plan established**
 912 **pursuant to § 23.1-701 of the Code of Virginia, as amended by this act, shall not implement or take**
 913 **part in any initiatives relating to access programs, as such term is defined in § 23.1-235 of the Code of**
 914 **Virginia, as created by this act, on or after July 1, 2026, except for (i) existing access programs related**
 915 **to a prepaid tuition contract entered into on or before June 30, 2026, and (ii) existing program**
 916 **offerings made available for SOAR Virginia and GEAR UP Virginia, as administered by the**
 917 **Commonwealth Savers Plan.**

918 **4. That as soon as practicable after July 1, 2026, the Commonwealth Savers Plan (the Plan) shall**
 919 **deposit an amount equal to \$586 million from the access fund established and currently set aside by the**
 920 **Plan into the Virginia College Access and Affordability Scholarship Fund established pursuant to**
 921 **subdivision C 1 of § 23.1-701 of the Code of Virginia, as amended by this act.**

922 **5. That the provisions of subdivision C 2 a of § 23.1-701 of the Code of Virginia, as amended by this act,**
 923 **shall become effective beginning in the fiscal year immediately following the fiscal year in which the**
 924 **deposit required pursuant to the fourth enactment of this act is made.**