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SENATE BILL NO. 375

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 12, 2026)

(Patron Prior to Substitute—Senator Surovell)

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, 23.1-704, 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 and 23.1-236, and by adding a section numbered 23.1-707.2, relating to Commonwealth Savers Plan; Virginia College Opportunity Fund established; 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, 23.1-704, 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 and 23.1-236, and by adding a section numbered 23.1-707.2 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 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public

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

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

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

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

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

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

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

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

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

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

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

107 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
108 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
109 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
110 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
111 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
112 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
113 other ownership interest in an entity, where such security or ownership interest is not traded on a
114 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
115 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
116 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
117 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
118 confidentiality, of the future value of such ownership interest or the future financial performance of the
119 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
120 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
121 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the

122 disclosure of information relating to the identity of any investment held, the amount invested or the present
123 value of such investment.

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

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

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

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

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

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

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

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

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

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

183 31. Discussion or consideration by the Commitment Review Committee of information subject to the

184 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
185 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

290 **§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

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

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

308 appropriate board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

368 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
369 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or

370 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
 371 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
 372 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

490 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
491 executive order for the purpose of studying and making recommendations regarding preventing closure or
492 realignment of federal military and national security installations and facilities located in Virginia and
493 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a

494 local governing body, during which there is discussion of information subject to the exclusion in subdivision
495 8 of § 2.2-3705.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

555 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more

556 public bodies, or their representatives, but these conferences shall be subject to the same procedures for
 557 holding closed meetings as are applicable to any other public body.

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

565 *Article 5.*
 566 *Virginia College Opportunity Fund.*

567 **§ 23.1-235. Definitions.**

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

569 *"Access Fund" means the subfund of the DB529 Fund established in subsection C of § 23.1-701*

570 *"Board" means the governing board of the Plan.*

571 *"DB529 Fund" means the subfund of the Fund established pursuant to subsection C of § 23.1-701 that*
 572 *holds the assets of the prepaid tuition contracts established pursuant to § 23.1-707 (the Defined Benefit 529*
 573 *Program) in trust to meet contractual obligations.*

574 *"Distribution Amount" means the total annual distribution made from the Opportunity Fund pursuant to*
 575 *this article.*

576 *"Opportunity Fund" means the Virginia College Opportunity Fund established pursuant to § 23.1-236.*

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

578 **§ 23.1-236. Virginia College Opportunity Fund established.**

579 A. *There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia*
 580 *College Opportunity Fund. The Opportunity Fund shall be established on the books of the Comptroller. All*
 581 *deposits by the Plan from the Access Fund into the Opportunity Fund shall be paid into the state treasury and*
 582 *credited to the Opportunity Fund. Interest earned on moneys in the Opportunity Fund shall remain in the*
 583 *Opportunity Fund and be credited to it. Any moneys remaining in the Opportunity Fund, including interest*
 584 *thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Opportunity*
 585 *Fund. Moneys in the Opportunity Fund shall be used solely for the purposes of any investments of dedicated*
 586 *Opportunity Fund assets in support of future scholarship and financial aid awards pursuant to this section.*
 587 *Expenditures and disbursements from the Opportunity Fund shall be made by the State Treasurer on*
 588 *warrants issued by the Comptroller upon written request signed by the executive director of the Council.*

589 B. 1. *The board of the Plan shall, in coordination with the Directors of the Department of Planning and*
 590 *Budget and the Department of Accounts, deposit by October 1, 2026, an amount (i) jointly determined by the*
 591 *board of the Plan and the Joint Legislative Audit and Review Commission, (ii) following the first evaluation*
 592 *and assessment conducted pursuant to subdivision C 3 of § 23.1-701, and (iii) to be distributed from the*
 593 *Access Fund into the Opportunity Fund, provided that the principal and earnings thereon shall only be used*
 594 *in support of the Opportunity Fund.*

595 2. *The Opportunity Fund shall be allocated to support programs established for the purpose of enhancing*
 596 *educational access and affordability for students with recognized financial need, including scholarships,*
 597 *need-based financial aid awards, or tuition assistance grants awarded through the Tuition Assistance Grant*
 598 *Act established pursuant to Article 5 (§ 23.1-628 et seq.) of Chapter 6 and the Virginia Guaranteed*
 599 *Assistance Program and Fund established pursuant to Article 6 (§ 23.1-636 et seq.) of Chapter 6.*

600 3. *Disbursements from the Opportunity Fund shall be in amounts as appropriated by the General*
 601 *Assembly.*

602 C. *The Council shall no less than annually complete an evaluation and assessment of the Opportunity*
 603 *Fund to evaluate its financial stability and its ability to meet current and future obligations. The Council*
 604 *shall submit to the House Committees on Education and Appropriations, the Senate Committees on*
 605 *Education and Health and Finance and Appropriations, and the Joint Legislative Audit and Review*
 606 *Commission by November 1 of each year a report on the Council's activities related to the Opportunity Fund*
 607 *for the preceding year and its financial details.*

608 **§ 23.1-700. Definitions.**

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

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

615 *"Access Fund" means the subfund of the DB529 Fund established in subsection C of § 23.1-701.*

616 *"Board" means the governing board of the Plan.*

617 *"College savings trust account" means an account established pursuant to this chapter to assist individuals*

618 and families to enhance the accessibility and affordability of higher education, with such account used to
 619 apply distributions from the account toward qualified higher education expenses, as that term is defined in §
 620 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

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

623 "*DB529 Fund*" means the subfund of the Fund established in subsection C of § 23.1-701 that holds the
 624 assets of the prepaid tuition contracts established pursuant to § 23.1-707 (the Defined Benefit 529 Program)
 625 in trust to meet contractual obligations.

626 "Non-Virginia public and accredited nonprofit independent or private institutions of higher education"
 627 means public and accredited nonprofit independent or private institutions of higher education that are located
 628 outside the Commonwealth.

629 "*Opportunity Fund*" means the Virginia College Opportunity Fund created pursuant to § 23.1-236 and
 630 administered by the Council.

631 "Plan" means the Commonwealth Savers Plan.

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

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

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

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

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

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

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

652 **§ 23.1-701. Plan established; moneys; governing board.**

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

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

664 C. 1. All other moneys of the Plan, including payments received pursuant to prepaid tuition contracts,
 665 bequests, endowments, grants from the United States government or its agencies or instrumentalities, and any
 666 other available public or private sources of funds shall be first deposited in the state treasury in a special
 667 nonreverting fund (the Fund). Such moneys shall then be deposited as soon as practicable in a separate
 668 account or separate accounts in banks or trust companies organized under the laws of the Commonwealth,
 669 national banking associations, federal home loan banks, or, to the extent permitted by law, savings
 670 institutions organized under the laws of the Commonwealth or the United States. Benefits relating to prepaid
 671 tuition contracts and Plan operating expenses shall be paid from the Fund. ~~Any~~ Except as provided in
 672 subdivision 2, any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund
 673 but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in
 674 the Fund and be credited to it. *The Fund shall include the DB529 Fund established as a subfund of the Fund*
 675 *and the Access Fund established as a subfund of the DB529 Fund.*

676 2. After the fiscal year beginning July 1, 2026, the Plan shall (i) maintain the Access Fund and
 677 periodically deposit funds from the DB529 Fund into the Access Fund as directed, (ii) manage the Access
 678 Fund as part of the DB529 Fund such that it be both accounted for separately and with the primary
 679 investment objective of preserving the real purchasing power by earning a rate of return that is at least equal

680 to the annual spending rate plus inflation, and (iii) supply a predictable level of funds. A total return
681 spending policy developed by the Plan shall provide for the distribution of at least five percent of the 36-
682 month rolling average of the market value of the DB529 Fund portfolio as of December 31 of each year, but
683 no distribution to or from the DB529 Fund or the Access Fund shall (a) violate the standard of care set forth
684 in § 23.1-706 or (b) jeopardize the soundness of the Fund or the Plan's ability to meet any of its current or
685 long-term obligations.

686 3. The Plan shall no less than annually complete an independent evaluation and assessment of both the
687 DB529 Fund and the Access Fund to evaluate whether the actuarial funded status is at least 125 percent, the
688 financial stability of all funds, and each fund's ability to meet current and future obligations of the Plan, and
689 to determine the availability of additional allocations to the Opportunity Fund that shall be made in amounts
690 as the board deems appropriate. The Plan shall submit to the House Committees on Education and
691 Appropriations, the Senate Committees on Education and Health and Finance and Appropriations, and the
692 Joint Legislative Audit and Review Commission by September 15, 2026, for the first evaluation and
693 assessment, and by November 1 of each year thereafter a report on the Plan's activities related to the DB529
694 Fund, the Access Fund, and the Opportunity Fund for the preceding year.

695 4. The Joint Legislative Audit and Review Commission shall no less than semi-annually complete an
696 independent evaluation and risk assessment of the Plan's risk assessment model, assumptions, and other
697 measures employed by the Plan related to the DB529 Fund and the Access Fund, including the financial
698 stability and ability to meet current and future obligations in each fund, and whether recommendations are
699 appropriate in amounts to fully support the Opportunity Fund. Such evaluation shall include an assessment
700 of each allocation made by the Plan to the Opportunity Fund.

701 D. The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition
702 contract benefits and, in connection with such system, open and maintain a separate account or separate
703 accounts in banks or trust companies organized under the laws of the Commonwealth, national banking
704 associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under
705 the laws of the Commonwealth or the United States. Such independent disbursement system and any related
706 procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall
707 be construed to relieve the Plan of its duty to provide prepaid tuition contract benefit transactions to the
708 Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802.

709 E. The Plan shall be administered by an 11-member board that consists of (i) the Executive Director of the
710 Council or his designee, the Chancellor of the Virginia Community College System or his designee, the State
711 Treasurer or his designee, and the State Comptroller or his designee, all of whom shall serve ex officio with
712 voting privileges, and (ii) seven nonlegislative citizen members, four of whom shall be appointed by the
713 Governor, one of whom shall be appointed by the Senate Committee on Rules, two of whom shall be
714 appointed by the Speaker of the House of Delegates, and all of whom shall have significant experience in
715 finance, accounting, law, investment management, higher education, or disability advocacy. In addition, at
716 least one of the nonlegislative citizen members shall have expertise in the management and administration of
717 private defined contribution retirement plans.

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

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

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

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

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

727 **§ 23.1-704. Powers and duties of the board.**

728 The board shall:

729 1. Administer the Plan established by this chapter;

730 2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in
731 § 23.1-700, at a fixed, guaranteed level for application at a public institution of higher education; (ii)
732 contributions to college savings trust accounts established pursuant to this chapter on behalf of a qualified
733 beneficiary in order to apply distributions from the account toward qualified higher education expenses, as
734 that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal
735 law; and (iii) contributions to ABLE savings trust accounts established pursuant to this chapter on behalf of a
736 qualified beneficiary in order to apply distributions from the account toward qualified disability expenses for
737 an eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as
738 amended, or other applicable federal law;

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

741 4. Develop requirements, procedures, and guidelines regarding prepaid tuition contracts and savings trust

742 accounts, including residency and other eligibility requirements; the number of participants in the Plan; the
 743 termination, withdrawal, or transfer of payments under a prepaid tuition contract or savings trust account;
 744 time limitations for the use of tuition benefits or savings trust account distributions; and payment schedules;

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

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

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

757 8. Develop and implement scholarship or matching grant programs, or both, as the board may deem
 758 appropriate, to further its goal of making higher education more affordable and accessible to all citizens of
 759 the Commonwealth;

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

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

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

772 12. *Administer the surplus rebate program pursuant to § 23.1-707.2; and*

773 13. *Assist the Council in the administration of the Opportunity Fund, as established in § 23.1-236, and*
 774 *manage the assets of the Access Fund.*

775 **§ 23.1-706. Standard of care; investment and administration of the Plan.**

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

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

786 B. ~~The~~ *Except as otherwise provided in law*, assets of the Plan shall be preserved, invested, and expended
 787 solely pursuant to and for the purposes of this chapter and shall not be loaned or otherwise transferred or used
 788 by the Commonwealth for any other purpose. Within the standard of care set forth in subsection A, the board
 789 and any person, investment manager, or committee to whom the board delegates any of its investment
 790 authority, may acquire and retain any kind of property and any kind of investment, including (i) debentures
 791 and other corporate obligations of foreign or domestic corporations; (ii) common or preferred stocks traded
 792 on foreign or domestic stock exchanges; (iii) not less than all of the stock or 100 percent ownership of a
 793 corporation or other entity organized by the board under the laws of the Commonwealth for the purposes of
 794 acquiring and retaining real property that the board may acquire and retain under this chapter; and (iv)
 795 securities of any open-end or closed-end management type investment company or investment trust registered
 796 under the federal Investment Company Act of 1940, as amended, including investment companies or
 797 investment trusts that, in turn, invest in the securities of such investment companies or investment trusts that
 798 persons of prudence, discretion, and intelligence acquire or retain for their own account. The board may
 799 retain property properly acquired without time limitation and without regard to its suitability for original
 800 purchase.

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

803 C. The selection of services relating to the operation and administration of the Plan, including contracts or

804 agreements for the management, purchase, or sale of authorized investments or actuarial, recordkeeping, or
805 consulting services, are governed by the standard of care set forth in subsection A and are not subject to the
806 provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

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

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

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

816 **§ 23.1-707.2. Surplus rebate program.**

817 A. The board shall establish a surplus rebate program to return actuarial surplus funds from the DB529
818 Fund, through the Access Fund subfund, to owners of a prepaid tuition contract pursuant to this section.

819 B. 1. The board shall develop an implementation for a reasonable timeframe within which to provide
820 rebates to owners of a prepaid tuition contract who entered into such contract before July 1, 2019, and apply
821 for such rebate. Such owners shall be provided an opportunity to submit an online refund application,
822 including sufficient documentation of identification and ownership, as determined by the board. The board
823 shall calculate the amounts any such owners may be due under any such rebate.

824 2. Any rebate so issued shall include in its documentation a notice of any federal, state, or local tax
825 liabilities or delinquencies. On any application to claim a rebate so issued, the board shall ensure that such
826 application allows an owner of a prepaid tuition contract account to request that such rebate amount be
827 instead applied to (i) a new prepaid tuition contract account pursuant to this chapter or (ii) any other uses
828 allowed under 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as
829 amended.

830 C. Notwithstanding the provisions of § 58.1-3, the board shall coordinate with the Department of
831 Taxation and commissioners of revenue as needed to include such notice with any rebate check.

832 **2. That the State Council of Higher Education for Virginia shall convene a work group to make**
833 **recommendations on the annual appropriation from the amounts transferred to the Virginia College**
834 **Opportunity Fund, established pursuant to § 23.1-236 of the Code of Virginia, as created by this act, to**
835 **support scholarships, need-based financial aid awards, or tuition assistance grant needs of the**
836 **programs included in § 23.1-236 of the Code of Virginia, as created by this act. The work group shall**
837 **consist of individuals with higher education experience and include a representative of the Virginia**
838 **Community College System; a financial aid director or equivalent position from a Virginia public**
839 **institution of higher education or an accredited nonprofit independent or private institution of higher**
840 **education in Virginia that is eligible to participate in the Tuition Assistance Grant Program established**
841 **pursuant to Article 5 (§ 23.1-628 et seq.) of Chapter 6 of Title 23.1 of the Code of Virginia; an**
842 **enrollment management director or equivalent position from a Virginia public or private institution of**
843 **higher education; a representative of Virginia's historically black colleges and universities; a**
844 **representative of the Department of Education; representatives of the public primary and secondary**
845 **education system, of whom one shall be a high school college counselor; and at least one representative**
846 **of a community organization that provides college access programs. The work group shall also include**
847 **one representative from the Department of Planning and Budget, one representative from the House**
848 **Committee on Appropriations, and one representative from the Senate Committee on Finance and**
849 **Appropriations to provide input on financial modeling and fiscal impacts. The recommendations shall**
850 **be submitted to the Governor and Chairs of the House Committees on Education and Appropriations**
851 **and the Senate Committees on Education and Health and Finance and Appropriations by November 1**
852 **of each year.**

853 **3. That the Joint Legislative Audit and Review Commission shall monitor and report to the Governor**
854 **and Chairs of the House Committees on Education and Appropriations and the Senate Committees on**
855 **Education and Health and Finance and Appropriations by November 1 of each year on the**
856 **implementation and administration of the provisions of the first enactment of this act. Such report**
857 **shall include any recommendations to improve the implementation and administration of the**
858 **provisions of the first enactment of this act.**