

TO: SENATE OF VIRGINIA

SENATE BILL NO. 212

I approve the general purpose of this bill, but I am returning it without my signature with the request that the following amendments be made:

1. Line 2, enrolled

strike

all of lines 2 through 1615

insert

A BILL to amend and reenact §§ 2.2-3711, as it is currently effective and as it shall become effective, 18.2-325, 18.2-334, 19.2-389, 37.2-314.2, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4015.1, 58.1-4048, and 58.1-4103 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.3, by adding a section numbered 18.2-334.7, and by adding in Title 58.1 a chapter numbered 42, containing articles numbered 1 through 5, consisting of sections numbered 58.1-4200 through 58.1-4226, relating to regulation of electronic gaming devices; penalties.

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, 18.2-325, 18.2-334, 19.2-389, 37.2-314.2, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4015.1, 58.1-4048, and 58.1-4103 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended

by adding in Chapter 3 of Title 11 a section numbered 11-16.3, by adding a section numbered 18.2-334.7, and by adding in Title 58.1 a chapter numbered 42, containing articles numbered 1 through 5, consisting of sections numbered 58.1-4200 through 58.1-4226, as follows:

§ 2.2-3711. (Effective until date pursuant to Acts 2023, cc. 756 and 778, cl. 5) 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 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 institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the

membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration, or review of Virginia Lottery matters related to proprietary lottery game

information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

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

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

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or

the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would

adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

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

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

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

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

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider

settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

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

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

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

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

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

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

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

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

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

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

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

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

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

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

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

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

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

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

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

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

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

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses

involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

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

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

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

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

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

55. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license related to electronic gaming devices and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

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

§ 2.2-3711. (Effective pursuant to Acts 2023, cc. 756 and 778, cl. 5) 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 institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure

statement filed by the member, provided that the member may request in writing that the committee meeting not be conducted in a closed meeting.

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

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

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

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

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

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

or plans related to the security of any governmental facility, building, or structure, or the safety of persons using such facility, building, or structure.

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

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of

meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College

Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

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

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

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

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

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

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

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the

information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

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

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

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

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

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

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

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

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

55. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license related to electronic gaming devices and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§

54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 11-16.3. Exemption; play of authorized electronic gaming devices.

This chapter shall not apply to the play of electronic gaming devices or related activity that is lawful under Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.

§ 18.2-325. Definitions.

~~1. As used in this article, unless the context requires a different meaning:~~

"Gambling device" includes:

1. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, that are actually used in an illegal gambling operation or activity; and

2. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including those dependent upon the insertion of a coin or other object for their operation, that operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled, provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subdivision, and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color shall not be deemed gambling devices within the meaning of this subdivision.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less gambling devices because, apart from

their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

"Gambling device" does not include an electronic gaming device authorized pursuant to the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

"Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this ~~subdivision~~ definition and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision ~~3 b,~~ 2 of the definition of "gambling device," regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

~~"Illegal gambling" also means the playing or offering for play of any skill game.~~

~~2-~~ "Illegal gambling" does not include the playing or offering for play of any electronic gaming device authorized pursuant to the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

"Interstate gambling" means the conduct of an enterprise for profit that engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

~~3. "Gambling device" includes:~~

~~a. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in an illegal gambling operation or activity;~~

~~b. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled, provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be deemed gambling devices within the meaning of this subsection; and~~

~~c. Skill games.~~

~~Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.~~

~~4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.~~

~~5. "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.~~

~~6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash or cash equivalents whether the payoff is made automatically from the device or manually. "Skill game" includes (i) a device that contains a meter or measurement device that records the number of free games or portions of games that are rewarded and (ii) a device designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than the amount that is ordinarily~~

~~required to play the game. "Skill game" does not include any amusement device, as defined in § 18.2-334.6.~~

7. "Unregulated location" means any location that is not regulated or operated by the Virginia Lottery or the Virginia Lottery Board, the Department of Agriculture and Consumer Services, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

§ 18.2-334. Exception to article; private residences.

Nothing in this article shall be construed to make it illegal to participate in a game of chance conducted in a private residence, provided such private residence is not commonly used for such games of chance and there is no operator as defined in ~~subsection 4 of~~ § 18.2-325.

§ 18.2-334.7. Exemptions to article; electronic gaming devices.

Nothing in this article shall be construed to make it illegal to play any electronic gaming device or conduct any related activity that is lawful under Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated, or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered

a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, ~~but not limited to,~~ issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers, or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing

agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) ~~and~~ casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and electronic gaming devices as set forth in Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals, and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics, and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision ~~A~~ 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of

investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

47. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children; and

48. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is

maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 37.2-314.2. Problem Gambling Treatment and Support Fund.

A. As used in this section:

"Compulsive gambling" means persistent and recurrent problem gambling behavior leading to clinically significant impairment or distress, as indicated by an individual exhibiting four or more of the criteria as defined by the Diagnostic Statistical Manual of Mental Disorders in a 12-month period and where the behavior is not better explained by a manic episode.

"Problem gambling" means a gambling behavior that causes disruptions in any major area of life, including the psychological, social, or vocational areas of life, but does not fulfill the criteria for diagnosis as a gambling disorder.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenue accruing to the Fund pursuant to subsection A of § 58.1-4038, moneys required to be deposited into the Fund pursuant to subsection B of § 58.1-4218, and moneys required to be deposited into the Fund pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing compulsive and problem gambling treatment and prevention programs, and (iii) providing grants to support organizations that provide assistance to compulsive and problem gamblers. Expenditures and disbursements from the Fund

shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 58.1-4002. Definitions.

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

"Board" means the Virginia Lottery Board established by this chapter.

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Department" means the independent agency responsible for the administration of the Virginia Lottery pursuant to this article ~~and, the regulation of~~ sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and electronic gaming devices pursuant to Chapter 42 (§ 58.1-4200 et seq.).

"Director" means the Director of the Virginia Lottery.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this ~~chapter~~ article.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

"Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.

"Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery tickets on behalf of individuals located within or outside of the Commonwealth and delivering or

transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4015.1 by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4003. Virginia Lottery established.

Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any other provision of law, there is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive, or judicial branches of government, the Virginia Lottery, which shall include a Director and ~~a the~~ Virginia Lottery Board for the ~~purpose~~ purposes of operating a state lottery and regulating sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and electronic gaming devices pursuant to Chapter 42 (§ 58.1-4200 et seq.).

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer:

1. The operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated ~~hereunder pursuant to this chapter; and~~
2. The regulation of sports betting in accordance with Article 2 (§ 58.1-4030 et seq.) and with the rules and regulations promulgated pursuant to this chapter;
3. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.) and with the rules and regulations promulgated pursuant to that chapter; and
4. The regulation of electronic gaming devices in accordance with Chapter 42 (§ 58.1-4200 et seq.) and with the rules and regulations promulgated pursuant to that chapter.

B. The Director shall also:

1. Employ such deputy directors, professional, technical, and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery, and the regulation of sports betting, casino gaming, and electronic gaming devices; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery and the regulation of sports betting, casino gaming, and electronic gaming devices.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted ~~hereunder~~ pursuant to this chapter.

6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41 (§ 58.1-4100 et seq.).

7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly gaming operations.

8. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for appropriate action.

9. Inspect and investigate, and have free access to, the offices, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.

10. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to file with the Department such information as shall appear to the Director to be necessary for the performance of the Department's functions, including financial statements and information relative to principals and all others with any pecuniary interest in such person.

11. Impose a fine or penalty not to exceed \$1 million upon any person determined, in proceedings commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100 et seq.) or regulations promulgated by the Board.

12. Enter into arrangements with any foreign or domestic governmental agency for the purposes of exchanging information or performing any other act to better ensure the proper conduct of casino gaming operations or the efficient conduct of the Director's duties.

13. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

14. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements, and other expenses for the preceding month.

15. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total lottery revenues, prize disbursements, and other expenses for the preceding month and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, as well as a separate financial statement of the expenses incurred in the regulation of casino gaming operations as defined in § 58.1-4100, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and Board deem necessary or desirable.

16. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter ~~and~~, Chapter 41 (§ 58.1-4100 et seq.), and Chapter 42 (§ 58.1-4200 et seq.), or the rules and

regulations adopted ~~hereunder~~ pursuant to this chapter, or to rectify undesirable conditions in connection with the administration or operation of the lottery.

17. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of \$600 in the manner required by the lottery rules and regulations.

18. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,001.

19. Participate in the Problem Gambling Treatment and Support Advisory Committee established pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents that he determines will be cost effective and support increased sales of lottery products.

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery pursuant to this article ~~and~~, sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and electronic gaming devices pursuant to Chapter 42 (§ 58.1-4200 et seq.). The regulations governing the establishment and operation of the lottery ~~and~~, sports betting, casino gaming, and electronic gaming devices shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery ~~and~~, sports betting, casino gaming, and electronic gaming devices and for the convenience of the purchasers of tickets or shares, the holders of winning tickets or shares, ~~and~~ sports bettors, casino gaming patrons, and the players of

electronic gaming devices. The regulations, which may be amended, repealed, or supplemented as necessary, shall include the following:

1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.
2. The price or prices of tickets or shares in the lottery.
3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.
4. The manner of selecting the winning tickets or shares.
5. The manner of payment of prizes to the holders of winning tickets or shares.
6. The frequency of the drawings or selections of winning tickets or shares without limitation.
7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.
8. The method to be used in selling tickets or shares, including the sale of tickets or shares over the Internet.
9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.
10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at the agent's place of business so long as the employee is supervised in the selling or vending of tickets by the manager or supervisor in charge at the location where the tickets are being sold. Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.
11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to approve temporary bonus or incentive programs for payments to licensed sales agents.

12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022.

13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

14. The operation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.). In adopting such regulations, the Board shall establish a consumer protection program and publish a consumer protection bill of rights. Such program and bill of rights shall include measures to protect sports bettors, as defined in § 58.1-4030, with respect to identity, funds and accounts, consumer complaints, self-exclusion, and any other consumer protection measure the Board determines to be reasonable.

15. The administration of a voluntary exclusion program as provided in § 58.1-4015.1.

The Department shall not be subject to the provisions of ~~Chapter 43 the Virginia Public Procurement Act~~ (§ 2.2-4300 et seq.) ~~of Title 2.2~~; however, the Board shall promulgate regulations, after consultation with the Director, relative to departmental procurement which include standards of ethics for procurement consistent with the provisions of Article 6 (§ 2.2-4367 et seq.) of ~~Chapter 43 of Title 2.2 the Virginia Public Procurement Act~~ and which ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director. However, the Board shall have the power to accept, modify, or reject any revenue projections before such projections are forwarded to the Governor.

B. The Board shall carry on a continuous study and investigation of the lottery ~~and~~, sports betting, casino gaming, and electronic gaming devices throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued ~~hereunder which pursuant to this chapter that~~ cause abuses in the administration and operation of the lottery ~~and~~, sports betting ~~and~~, casino gaming, or electronic gaming devices or any evasions of such provisions.

2. Formulate, with the Director, recommendations for changes in this chapter and the regulations promulgated ~~hereunder pursuant to this chapter~~ to prevent such abuses and evasions.

3. Guard against the use of this chapter and the regulations promulgated ~~hereunder~~ pursuant to this chapter as a subterfuge for organized crime and illegal gambling.

4. Ensure that this law and the regulations of the Board are in such form and are so administered as to serve the true purpose of this chapter.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws that may be in effect in other states or countries; (ii) any literature on the subject that may be published or available; (iii) any federal laws that may affect the operation of the lottery ~~and~~, sports betting, casino gaming, and electronic gaming devices; and (iv) the reaction of Virginia citizens to the potential features of the lottery ~~and~~, sports betting, casino gaming, and electronic gaming devices with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The Board shall hear and decide an appeal of any ~~denial~~:

1. Denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision A 10 of this section and subdivision B 5 of § 58.1-4006. ~~The Board shall hear and decide an appeal of any penalty;~~

2. Penalty, denial of a permit or renewal, or suspension or revocation of a permit imposed by the Director pursuant to Article 2 (§ 58.1-4030 et seq.);

3. Penalty, denial of a permit or license or renewal, or suspension or revocation of a permit or license imposed by the Director pursuant to Chapter 41 (§ 58.1-4100 et seq.); and

4. Penalty, denial by the Director of a license or renewal, or suspension or revocation of a license imposed by the Director pursuant to Chapter 42 (§ 58.1-4200 et seq.).

E. The Board shall have the authority to initiate procedures for the planning, acquisition, and construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

F. The Board may adjust the percentage of uncollectible gaming receivables allowed to be subtracted from adjusted gross revenue, as defined in § 58.1-4030, if it determines that a different percentage is reasonable and customary in the sports betting industry.

§ 58.1-4015.1. Voluntary exclusion program.

A. The Board shall adopt regulations to establish and implement a voluntary exclusion program.

B. The regulations shall include the following provisions:

1. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program agrees to refrain from (i) playing any account-based lottery game authorized under the provisions of this article; (ii) participating in sports betting, as defined in § 58.1-4030; (iii) engaging in any form of casino gaming that may be allowed under the laws of the Commonwealth; (iv) playing any electronic gaming device authorized pursuant to Chapter 42 (§ 58.1-4200 et seq.); (v) participating in charitable gaming, as defined in § 18.2-340.16; ~~(v)~~ (vi) participating in fantasy contests, as defined in § 59.1-556; or ~~(vi)~~ (vii) wagering on horse racing, as defined in § 59.1-365. Any state agency, at the request of the Department, shall assist in administering the voluntary exclusion program pursuant to the provisions of this section.

2. A person who participates in the voluntary exclusion program may choose an exclusion period of two years, five years, or lifetime.

3. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program may not petition the Board for removal from the program for the duration of his exclusion period.

4. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, with dissemination by the Department limited to sales agents and permit holders, as defined in § 58.1-4030, and any other parties the Department deems necessary for purposes of enforcement. The list and the personal information of participants in the voluntary exclusion program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board.

5. Sales agents and permit holders shall make all reasonable attempts as determined by the Board to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude sales agents and permit holders from seeking the payment of a debt incurred

by a person before entering the program. In addition, a permit holder may share the names of individuals who self-exclude across its corporate enterprise, including sharing such information with any of its affiliates.

§ 58.1-4048. Gaming Regulatory Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming Regulatory Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to offset the Department's costs associated with (i) the conduct of investigations required by § 58.1-4032, 58.1-4043, 58.1-4104, 58.1-4109, 58.1-4116, 58.1-4120, or 58.1-4121 or any other provision of this article ~~or~~, Chapter 41 (§ 58.1-4100 et seq.), or Chapter 42 (§ 58.1-4200 et seq.) and (ii) the enforcement of regulations promulgated by the Virginia Lottery Board pursuant to subdivisions A 14 and 15 of § 58.1-4007, subdivision 2 of § 58.1-4102, and ~~§§~~ 58.1-4103, 58.1-4202, and 58.1-4204. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 58.1-4103. Voluntary exclusion program.

A. The Board shall adopt regulations to establish and implement a voluntary exclusion program.

B. The regulations shall include the following provisions:

1. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program agrees to refrain from (i) playing any account-based lottery game authorized under the provisions of this chapter or Chapter 40 (§ 58.1-4000 et seq.); (ii) participating in sports betting as such activity is regulated by the Board; (iii) engaging in any form of casino gaming authorized under the provisions of this chapter; (iv) playing any electronic gaming device authorized pursuant to Chapter 42 (§ 58.1-4200 et seq.); (v) participating in charitable gaming, as defined in § 18.2-340.16; ~~(v)~~ (vi) participating

in fantasy contests, as defined in § 59.1-556; or ~~(vi)~~ (vii) wagering on horse racing, as defined in § 59.1-365. Any state agency, at the request of the Department, shall assist in administering the voluntary exclusion program pursuant to the provisions of this section.

2. A person who participates in the voluntary exclusion program may choose an exclusion period of two years, five years, or lifetime.

3. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program may not petition the Board for removal from the program for the duration of his exclusion period.

4. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, with dissemination by the Department limited to lottery sales agents licensed under Chapter 40 (§ 58.1-4000 et seq.), owners and operators of casino gaming establishments, and any other parties the Department deems necessary for purposes of enforcement. The list and the personal information of participants in the voluntary exclusion program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board.

5. Lottery sales agents and owners and operators of casino gaming establishments shall make all reasonable attempts as determined by the Board to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude lottery sales agents and owners and operators of casino gaming establishments from seeking the payment of a debt incurred by a person before entering the program. In addition, the owner or operator of a casino gaming establishment may share the names of individuals who self-exclude across its corporate enterprise, including sharing such information with any of its affiliates.

CHAPTER 42.

ELECTRONIC GAMING DEVICES.

Article 1.

General Provisions.

§ 58.1-4200. Definitions.

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

"Annual gross receipts" means the total amounts the licensee received from all sources during its annual accounting period, without subtracting any costs or expenses.

"Average monthly payout percentage" means the average of the per play amount awarded to a successful player divided by the corresponding per play amount wagered.

"Board" means the Virginia Lottery Board.

"Category" means the type of license granted by the Department, to include a manufacturer, distributor, operator, or host location license.

"Commercial motor vehicle" means the same as that term is defined in § 46.2-341.4.

"Department" means the independent agency responsible for the administration of the Virginia Lottery pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40 and the regulation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and electronic gaming devices pursuant to this chapter.

"Director" means the Director of the Virginia Lottery.

"Distributor" means any person registered with the Board that sells, leases, offers, or provides and distributes electronic gaming devices to an operator for use or play in the Commonwealth, and buys or leases electronic gaming devices from a manufacturer licensee. No distributor shall contract directly with a host location.

"Electronic gaming" means activity using an electronic gaming device as authorized under this chapter.

"Electronic gaming device" means a physical terminal, machine, or other device, including electronic or computerized devices, that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which shall be determined by a substantial and differential element of the skill of the player, and that may deliver or entitle the person playing or operating the device to receive cash in excess of the cost of operating, activating, or playing the game. "Electronic gaming device" does not include any amusement device, as defined in § 18.2-334.6, any mobile telephone

device, charitable games authorized pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, sports betting authorized under Article 2 (§ 58.1-4030 et seq.), casino gaming authorized under Chapter 41 (§ 58.1-4100 et seq.), or historical horse racing authorized pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1.

"Gaming area" means the area of the host location agreed upon by the operator licensee and the host location licensee in accordance with regulations promulgated by the Board for the placement and operation of electronic gaming devices.

"Gaming tax" means the tax imposed on gross profits.

"Gross profits" means all revenue generated from the play of electronic gaming devices minus prizes or cash winnings paid out to successful players.

"Host location" means a business establishment at which electronic gaming devices are placed, operated, and offered to the public for play in the gaming area by an operator licensee. "Host location" includes truck stops, as defined in this chapter.

"Independent testing laboratory" means a laboratory selected by the Director with a national reputation for honesty, independence, and timeliness that is demonstrably competent and qualified to scientifically test and evaluate electronic gaming devices for compliance with this chapter and to otherwise perform the functions assigned to it by this chapter. No manufacturer, operator, distributor, or host location licensee shall have any ownership interest in any independent testing laboratory approved by the Director.

"Individual" means a natural person.

"Inducement" means anything of value offered, given, transferred, or paid, directly or indirectly, by a manufacturer, distributor, procurement agent, operator, or any employee, agent, contractor, or other person acting on behalf of any manufacturer, distributor, operator, or procurement agent to any host location licensee or any applicant for a host location license pursuant to this chapter, or to any employee, investor, owner, or officer of a host location licensee or applicant for a host location license as an enticement to solicit, enter into, grant, execute, renew, extend, or maintain a use agreement by and between a host location licensee and a distributor licensee, including any cash, incentive, marketing or advertising cost, gift, food, beverage, loan, financing arrangement, prepayment of gross revenue, or any other

contribution payment that offsets a host location licensee's capital or operational costs, or as otherwise determined by the Board.

"Inducement" does not include costs paid by a distributor or operator licensee related to:

1. Costs for structural changes or modular materials or equipment used to meet minimum standards for the gaming area as required by the Board or to maintain the security of the gaming area, the electronic gaming devices, and ticket redemption terminals.

2. Surveillance equipment, alarm systems, and similar equipment or systems intended to monitor and secure the electronic gaming devices, the ticket redemption terminals, and the gaming area and the perimeter of the host location licensee's establishment, and any means of ingress and egress thereto.

3. Any wiring or rewiring of the gaming area necessary to operate electronic gaming devices, ticket redemption terminals, or ancillary equipment.

4. Any software updates to the electronic gaming devices or ticket redemption terminals or ongoing maintenance of electronic gaming devices, ticket redemption terminals, network connections, site controllers, chairs, tables, supports, or other ancillary equipment necessary to operate the electronic gaming devices and the ticket redemption terminals in the gaming area.

5. Any requirement established by the Board regarding minimum standards for the operation of electronic gaming devices, ticket redemption terminals, or the gaming area that the Board determines may be paid for, in whole or in part, by the distributor or operator licensee.

"Licensee" or "license holder" means any person holding a manufacturer, distributor, operator, or host location license pursuant to Article 2 (§ 58.1-4205 et seq.).

"Locality" means a county, city, or town, as those terms are defined in § 15.2-102.

"Lottery" means the lottery or lotteries established and operated pursuant to § 58.1-4002.

"Manufacturer" means any person that manufactures and sells or leases electronic gaming devices or software and hardware for electronic gaming devices to distributors or operators.

"Operator" means a person registered with the Board to place or service electronic gaming devices at the premises of a host location by (i) purchasing or leasing electronic gaming devices from a licensed manufacturer or distributor; (ii) providing the placement, repair, maintenance, replacement, or removal of

electronic gaming devices to host locations; (iii) maintaining and servicing such devices; and (iv) facilitating data collection and data and financial reporting as required by this chapter and as determined by the Board.

"Payout percentage" means the total amount of prize winnings awarded to successful players divided by the total amount of money wagered.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Player" means an individual who plays an electronic gaming device.

"Procurement agent" means a person licensed by the Board that acts as an agent, either as an employee or as an independent contractor of a manufacturer or manufacturers, distributor or distributors, operator or operators, and shares in the gross profits, is paid a commission, or is otherwise compensated for the purpose of soliciting or procuring a use agreement among two or more licensees in different categories.

"Profits after taxes" means the gross profit minus the tax imposed upon all gross profits generated from the play of electronic gaming devices pursuant to §§ 58.1-4217 and 58.1-4218.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the Board in accordance with the authority conferred on it by applicable laws.

"Single play" means the period beginning when a player activates and pays for the interactive gameplay function of an electronic gaming device and ending at the time when the gameplay function or series of free subgames thereunder will not continue without payment by the player of additional consideration.

"Successful player" means an individual who wins a payout on one or more plays of an electronic gaming device.

"Ticket redemption terminal" means a terminal where a voucher dispensed by an electronic gaming device may be redeemed for cash or a cash equivalent.

"Truck stop" means an establishment that (i) is equipped with diesel fuel islands used for fueling commercial motor vehicles and has sold, on average, at least 50,000 gallons of diesel or biodiesel fuel each month for the previous 12 months, or is projected to sell an average of at least 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months; (ii) has a convenience store, and (iii) is situated on not less than three acres of land that the establishment owns or leases; and (iv) has parking spaces dedicated to commercial motor vehicles.

"Use agreement" means a written agreement conforming to the regulations established by the Board and those minimum requirements set forth in this chapter among two or more licensees in different categories.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4204 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4204 by placing their names on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4201. Powers and duties of the Director related to electronic gaming devices; reporting.

A. The Director shall have the following powers and duties related to the regulation of electronic gaming devices:

1. Issue licenses under Article 2 (§ 58.1-4205 et seq.) and supervise all activities licensed under the provisions of this chapter, including the manufacture, distribution, operation, hosting, and playing of electronic gaming devices;

2. Suspend, revoke, or refuse to renew any license issued pursuant to Article 2 (§ 58.1-4205 et seq.) or the rules and regulations adopted pursuant to this chapter;

3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of any licensee and compel the production of any books, documents, records, or memoranda of any licensee for the purpose of satisfying himself that this chapter and Board regulations are strictly complied with;

4. Order such audits and inspections as deemed necessary;

5. Certify monthly to the State Comptroller and the Board a full and complete statement of electronic gaming device revenues for the previous month;

6. Assess and collect civil penalties for violations of this chapter and Board regulations;

7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total electronic gaming device revenues and expenses for the previous month and make an annual report, which shall include a full and complete statement of electronic gaming device revenues and expenses and a list of all licensees licensed pursuant to this chapter, to the Governor and the General Assembly, including recommendations for changes in this chapter as the Director and Board deem prudent;

8. Require training for host location licensees and the employees of any host location licensee as necessary on any topic the Director deems appropriate, including technical operations, security, problem gambling identification measures, and age verification procedures;

9. Establish monthly reporting requirements for each electronic gaming device on the amounts wagered and amounts awarded on the last 500 plays and the last 100 plays for each electronic gaming device; and

10. Do all acts necessary and advisable to carry out the purposes and provisions of this chapter.

B. Upon request by the assessing official of a locality, the Director shall provide to such assessing official of such locality a statement of the amount of the gaming tax collected in such locality pursuant to Article 4 (§ 58.1-4217 et seq.) from each electronic gaming device, from each host location, and from all electronic gaming devices and host locations in the aggregate.

§ 58.1-4202. Powers and duties of the Board related to electronic gaming devices.

In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate regulations related to electronic gaming devices that:

1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient for the administration of this chapter;

2. Establish requirements for all licensees under this chapter for the form, content, and retention of all records and accounts;

3. Establish procedures for the collection of all fees levied pursuant to this chapter and set due dates for the payment of such fees;

4. Establish a process for the approval or disapproval of electronic gaming devices and games offered on such devices;

5. Establish cash handling procedures for operator and host location licensees that require such licensees to keep separate accounts for gaming and nongaming transactions;

6. Establish standard terms between licensees in different categories;

7. Establish requirements for an average monthly per machine payout percentage of at least 80 percent among all monthly plays. If a host location has less than 500 plays within a month, the percentage shall be based on the last 500 plays for a particular electronic gaming device. The rules and regulations shall include notification requirements and penalties for noncompliance;

8. Establish rules and regulations that ensure transparency with respect to operational, transactional, and financial information provided to licensees that allow such licensees to be able to verify appropriate distributions of profits after taxes pursuant to the user agreement among any such licensees;

9. Establish rules and regulations to ensure public safety and protocols to deter criminal activity within and around the host location's premises, which shall include at least a 250-foot perimeter around the gaming area at such premises;

10. Promulgate regulations that establish limitations on excessive ATM fees for players in host locations;

11. Establish rules and regulations related to the level of substantial and differential level of skill that meets the definition of "electronic gaming device" in § 58/2-4200;

12. Establish rules and regulations for the licensing of procurement agents;

13. Establish a process for accepting license applications, including consideration of the aggregate cap on the number of electronic gaming devices as well as regional diversity and population;

14. Require inspections of all licensees at a frequency determined by the Board;

15. Require appropriate surveillance equipment, alarm systems, or similar equipment or systems intended to monitor and secure the gaming area and electronic gaming devices, ticket redemption terminals, electronic identification terminals, and the perimeter of the host location licensee's establishment, and any means of ingress and egress thereto;

16. Establish a program of periodic testing and inspection for all electronic gaming devices;

17. Establish a process to review the efficiency and effectiveness of the minimum wager and maximum payout requirements on an annual basis;

18. Prohibit licensees and their affiliates from advertising or marketing their products and services related to electronic gaming devices to players or potential players. However, (i) licensees shall be allowed to describe their products and services on a website operated and maintained by the licensee and (ii) host location licensees shall be allowed to advertise on one sign located at the host location, provided such sign is no larger than three feet in height by three feet in width;

19. Require host location licensees to post at least one sign in a conspicuous location at the entrance of any gaming area on the premises of its establishment. Such sign shall include (i) language that makes it clear that only individuals 21 years of age or older may play an electronic gaming device, (ii) a toll-free telephone number for problem gambling assistance that has been approved by the Virginia Council on Problem Gambling or another organization that provides assistance to problem gamblers, and (iii) the toll-free telephone number and website for the illegal gaming tip line established by the Office of the Gaming Enforcement Coordinator in the Department of State Police for members of the public to report concerns about, or suspected instances of, illegal gaming activities. The Board shall also distribute written guidance to host location licensees that shall be used to educate host location employees on how to recognize intoxicated individuals; and

20. Provide guidelines and recommendations necessary and advisable to carry out the purposes and provisions of this chapter.

§ 58.1-4203. Adoption of local ordinance or referendum required.

A. For the purposes of this section, "locality" means any county or city. "Locality" does not include any town.

B. The governing body of a locality may hold a referendum or adopt a local ordinance on the question of whether electronic gaming devices shall be prohibited in the locality.

C. If a local ordinance to prohibit electronic gaming devices has been adopted by the locality, a referendum with the opposite purpose may not be conducted for at least one calendar year from the effective date of the ordinance.

D. A referendum may be called for either by resolution of the governing body of a locality or upon a petition of qualified voters equal in number to at least 2.5 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 5,000 qualified voters in the jurisdiction, whichever is less. Upon the filing of a petition or passage of a resolution by the local governing body, the court shall order the election officials of the county or city on the date fixed in the order to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The regular election officers of such locality shall open the polls at the various voting places in such locality on the date specified in such order and conduct such election in the manner provided by law. The election shall be by ballot, which shall be prepared by the electoral board of the locality and on which shall be printed the following question:

"Shall electronic gaming devices, also known as "skill games" be prohibited at Lottery retailers, which may include convenience stores, gas stations, truck stops, and other locations in _____ (name of locality) as may be authorized by the Virginia Lottery?

☐ Yes

☐ No"

In the blank shall be inserted the name of the locality in which such election is held. Any voter desiring to vote "Yes" shall mark in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark in the square provided such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.

The ballots shall be counted, the returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering such election. Thereupon, such court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the Department and to the governing body of such locality.

E. No governing board of any locality shall approve an ordinance pursuant to subsection B without providing public notice of the number of electronic gaming devices allowed in the locality and an explanation for the need of such electronic gaming devices. The governing board shall also provide proper notice of (i) the date, time, and location of the meetings at which public comment is permitted by the governing board as well as information related to other available methods utilized by the governing board for public comment, at least 15 days prior to such meeting and (ii) the date, time, and location of any vote that is to take place on the matter at least 30 days prior to such vote being held. The governing board shall provide at least two in person public comment periods in the locality at least 15 days apart and one week prior to any vote on the proposed ordinance.

F. No license requirement, license fee, permit fee, sticker fee, or tax shall be imposed by any locality upon an electronic gaming device manufacturer, distributor, operator, or host location relating to the ownership, placement, use, or operation of electronic gaming devices or associated equipment.

§ 58.1-4204. Voluntary exclusion program.

A. The Board shall adopt regulations to establish and implement a voluntary exclusion program.

B. The regulations shall include the following provisions:

1. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program agrees to refrain from (i) playing any account-based lottery game authorized under the provisions of Chapter 40 (§ 58.1-4000 et seq.) or 41 (§ 58.1-4100 et seq.); (ii) participating in sports betting, as defined in § 58.1-4030; (iii) engaging in any form of casino gaming authorized under the provisions of Chapter 41 (§ 58.1-4100 et seq.); (iv) playing any electronic gaming device authorized under the provisions of this chapter; (v) participating in charitable gaming, as defined in § 18.2-340.16; (vi) participating in fantasy contests, as defined in § 59.1-556; or (vii) wagering on horse racing, as defined in

§ 59.1-365. Any state agency, at the request of the Department, shall assist in administering the voluntary exclusion program pursuant to the provisions of this section.

2. A person who participates in the voluntary exclusion program may choose an exclusion period of two years, five years, or lifetime.

3. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program may not petition the Board for removal from the program for the duration of his exclusion period.

4. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, except that dissemination of such information by the Department to the entity that manages its central accounting system established pursuant to § 58.1-4216 and any other parties the Department deems necessary for purposes of enforcement shall be allowed. The list and the personal information of participants in the voluntary exclusion program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board.

C. By July 1, 2026, the Board shall promulgate regulations for verifying if a player of an electronic gaming device is on the voluntary exclusion list prior to play. Such regulations shall include requirements related to electronic terminals and players' card and proper integration with the central accounting system.

Article 2.

Licenses and Requirements of Licensees.

§ 58.1-4205. Licenses that may be granted by the Director; fees.

A. The Director may grant the following four license categories of industry licenses:

1. Manufacturer license, which shall authorize the licensee to manufacture and sell or lease to a distributor or operator licensee electronic gaming devices, software and hardware for electronic gaming devices, and all tools and components necessary for the operation, repair, and maintenance of any such electronic gaming device.

2. Distributor license, which shall authorize the licensee to (i) buy or lease electronic gaming devices from a manufacturer licensee and (ii) sell or lease such devices to operator licensees.

3. Operator license, which shall authorize the licensee to (i) place or service electronic gaming devices at host locations, (ii) buy or lease electronic gaming devices from a manufacturer or distributor licensee, (iii) provide electronic gaming devices to host location licensees, (iv) maintain and service such devices, and (v) facilitate the data requirements and data reporting as required by this chapter.

4. Host location license, which shall authorize the licensee to allow the placement and offering for play of electronic gaming devices at such licensee's establishment.

B. An applicant for a manufacturer, distributor, operator, or host location license shall submit an application to the Director on forms provided by the Director. All distributor, operator, and host location applicants shall be required to submit a copy of a valid use agreement as a condition of continued licensure. The Board shall have the discretion to determine which license category applies to an applicant and the corresponding fees that apply to the applicant when such applicant meets the criteria for multiple licenses. Each host location premises shall be separately licensed.

C. A nonrefundable fee of \$250,000 shall be paid by an applicant for a manufacturer license to the Department upon issuance of such license, and annually thereafter as a condition of licensure renewal or continued licensure.

A nonrefundable fee of \$250,000 shall be paid by an applicant for a distributor license to the Department upon issuance of such license. Annually thereafter as a condition of licensure renewal or continued licensure, a distributor shall pay a fee of \$750 per electronic gaming device owned or leased by such distributor and located in the Commonwealth.

A nonrefundable fee of \$100,000 shall be paid by an applicant for an operator license to the Department upon issuance of such license, and annually thereafter as a condition of licensure renewal or continued licensure. Annually thereafter as a condition of licensure renewal or continued licensure, an operator shall pay a fee of \$750 per electronic gaming device it has made available for play in the Commonwealth.

A nonrefundable fee of \$9,000 shall be paid by an applicant for a host location license that does not meet the definition of a "truck stop" as defined in § 58.1-4200 to the Department upon issuance of such license. Each such host location licensee shall thereafter pay to the Department an annual fee of \$750 per electronic gaming device offered for play by the licensee.

A nonrefundable fee of \$21,000 shall be paid by an applicant for a host location license that meets the definition of a "truck stop" as defined in § 58.1-4200 to the Department upon issuance of such license. Each such host location license shall thereafter pay to the Department an annual fee of \$750 per electronic gaming device offered for play by the licensee.

All fees collected by the Department pursuant to this subsection shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.

§ 58.1-4206. General licensing requirements; penalty.

A. The Department, in conjunction with an approved outside vendor or accredited law-enforcement agency, shall conduct a background investigation, including a criminal history records check and fingerprinting, of the following individuals: (i) every individual applying for a license pursuant to this article; (ii) every individual who is an officer, director, board member, owner of at least a 10 percent interest in any licensee, or principal of a licensee or applicant for a license and any employee of the licensee, as determined by the Board, who is directly involved with a licensee; (iii) all security personnel of any licensee; and (iv) any individual conducting cash handling, maintenance, or service on any electronic gaming device. Each such individual shall submit his fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation for a national criminal records search and to the Department of State Police for a Virginia criminal history records check. The results of the background check and national and state criminal records check shall be returned to the Department. This subsection shall not apply to employees of host location licensees.

B. The Director shall refuse to grant a license or shall suspend, revoke, or refuse to renew a license issued pursuant to this chapter to any person who has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud

or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in electronic gaming devices.

C. The Director shall refuse to grant a license or shall suspend, revoke, or refuse to renew a license issued pursuant to this article to a partnership or corporation if he determines that any general or limited partner, or officer or director of such partnership or corporation, has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in electronic gaming devices.

D. The Director may also refuse to grant a license pursuant to this article if:

1. The Director reasonably believes that the applicant or any general or limited partner, or officer or director of such applicant lacks good character, honesty, or integrity;

2. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of electronic gaming devices, or (iii) promote unfair or illegal activities in the conduct of electronic gaming devices;

3. The applicant or any general or limited partner or any officer, or director of such applicant knowingly makes a false statement of material fact or deliberately fails to disclose information requested by the Director;

4. The applicant or any general or limited partner or any officer or director of such applicant knowingly fails to comply with the provisions of this chapter or any requirements of the Director;

5. The applicant's license to manufacture, distribute, operate, or offer to the public for play an electronic gaming device issued by any other jurisdiction has been suspended or revoked; or

6. The applicant's application is incomplete.

E. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly or willfully makes a false, fictitious, or fraudulent statement or representation in any application pursuant to this article is guilty of a Class 1 misdemeanor. The Director shall revoke the license

of a licensee if, subsequent to the issuance of the license, the Director determines that the licensee knowingly or recklessly made a false statement of material fact to the Director in applying for the license.

§ 58.1-4207. Distributor and operator licensees.

A. No distributor licensee shall own an electronic gaming device unless such device (i) is approved by the Director, (ii) has been manufactured by a manufacturer licensee, and (iii) is purchased from a manufacturer licensee or distributor licensee. No contract between a distributor or operator licensee and a manufacturer licensee shall grant the distributor licensee exclusive rights to own, maintain, or place a type, model, or brand of electronic gaming device or ticket redemption terminal in the Commonwealth.

B. No operator licensee shall place or maintain an electronic gaming device at any establishment where it is offered to the public for play for a charge, directly or indirectly, unless such establishment is a host location licensee and has an agreement with standard terms.

C. No operator licensee shall place or maintain any electronic gaming device upon the premises of any host location licensee whose establishment is located within 2,500 feet of any (i) public, private, or parochial school offering instruction to children in kindergarten through grade 12 or any child day center, as defined in § 22.1-289.02, or (ii) church, synagogue, mosque, or other place of religious worship.

D. The Board shall, by July 1, 2025, promulgate additional regulations to establish a comprehensive mechanism for the verification of identity and age, prior to play, of any individual who seeks to play any electronic gaming device on a host location licensee's premises. Such regulations shall include requirements related to electronic terminals and players' cards and proper integration with the central accounting system.

§ 58.1-4208. Host location licensees; civil penalty.

A. Only the following locations are eligible to receive a host location license:

1. Host locations that do not meet the definition of a "truck stop" licensed as an agent to sell lottery tickets or shares pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40; and

2. Host locations that meet the definition of "truck stop" licensed as an agent to sell lottery tickets of shares pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40.

B. No more than three electronic gaming devices may be located in an establishment listed in subdivision A 1. No more than seven electronic gaming devices may be located in an establishment listed in subdivision A 2.

C. No host location licensee shall allow an electronic gaming device to be placed upon the premises of such licensee's establishment unless such device is owned or leased, placed, and maintained by an operator licensee. The primary business of a host location licensee shall not be the offering for play of electronic gaming devices. No host location licensee shall derive more than 20 percent of its annual gross receipts from its share of the gross profits derived from the play of electronic gaming devices at such location.

D. No host location licensee shall use the term "casino" in its entity name, in any advertisement in association with its product or service, or in any manner prohibited by Board regulation. Any host location licensee that violates the provisions of this subsection shall be subject to a civil penalty established by the Board. The Director shall enforce the provisions of this subsection. All penalties collected pursuant to this subsection shall accrue to the Literary Fund.

E. In an effort to promote responsible gaming by players, host location licensees shall:

1. Affix to a clearly visible and conspicuous location on each electronic gaming device a label that bears a toll-free number for problem gambling assistance that has been approved by the Virginia Council on Problem Gambling or other organizations that provide assistance to problem gamblers;

2. Provide informational leaflets or other similar materials in the gaming area on the dangers associated with problem gambling; and

3. Comply with, and require its employees to comply with, any applicable Board regulations, including regulations regarding player self-exclusion programs, player identification, and player age verification.

Nothing contained in this subsection shall be construed to create any cause of action against the Board or Department for the failure of a host location licensee to comply with the requirements of this section.

F. All host location licensees shall comply with the provisions of this chapter and regulations adopted by the Board.

§ 58.1-4209. License posting; expiration.

A. Each license granted by the Director shall designate the physical location where the business of the licensee will be carried out.

B. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries out the business for which the license is granted.

C. The privileges conferred by any initial license application approved by the Director shall continue until the last day of the twelfth month after the effective date of such license. Upon completion of the first year of licensure, licenses shall be renewed until the next June 30 based upon the payment of a prorated renewal fee. Annually thereafter, licenses shall be renewed on July 1 and include payment of the renewal fee. A license may be sooner terminated for any cause for which the Director would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Director.

D. The Director may grant licenses for one year.

E. Sixty days before the expiration of a license, the license holder may submit a renewal application on forms prescribed by the Board. The Director may deny a license renewal if he finds grounds for denial as described in § 58.1-4206.

§ 58.1-4210. Prohibition against the issuance of multiple licenses.

A. For purposes of this section, "interest" means the direct or indirect ownership of any equity ownership interest or a partial equity ownership interest or any other type of financial interest, including being an investor, shareholder, member, lender, or employee.

B. No licensee that has been issued a manufacturer license, distributor license, or operator license shall be issued a host location license or have any interest in a host location licensee.

C. No licensee that has been issued a manufacturer license, distributor license, or host location license shall be issued an operator license or have any interest in an operator licensee.

D. No licensee that has been issued a host location license shall be issued a manufacturer license or distributor license or have any interest in a manufacturer licensee or distributor licensee.

E. A licensee that has been issued a manufacturer license may also be issued a distributor licensee or have an interest in a distributor licensee.

F. A licensee that has been issued a distributor license may also be issued a manufacturer license or have an interest in a manufacturer licensee.

G. Host location applicants with interest in multiple host locations shall submit a separate application for each individual host location premises.

§ 58.1-4211. Prohibition against transferring licenses or interests.

No licensee shall transfer its license or assign responsibility for compliance with the conditions of its license to any party, including a transfer of effective control of the licensee. No distributor licensee shall transfer any electronic gaming device or any interest in a use agreement.

§ 58.1-4212. Suspension and revocation of licenses; civil penalties; hearing and appeal.

A. If the Director determines that any provision of this chapter or any regulation or condition of the Board has not been complied with or has been violated by a licensee, he may, with at least 15 days' notice and a hearing, (i) assess a civil penalty against the licensee under a framework established by the Board and (ii) suspend or revoke the license holder's license. If any license is suspended or revoked, the Director shall state his reasons for doing so, which shall be entered of record. Any civil penalties collected pursuant to this section shall be paid into the state treasury and credited to the Literary Fund.

B. Any person aggrieved by a refusal of the Director to issue any license, the suspension or revocation of a license, the imposition of a fine, or any other action of the Director may seek review of such action in accordance with Board regulations and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

C. Suspension or revocation of a license by the Director for any violation shall not preclude criminal liability for such violation.

§ 58.1-4213. Minimum requirements for use agreements among two or more categories of licensees; division of revenue.

A. The Board shall promulgate regulations determining the minimum requirements and terms for use agreements among licensees, including timelines for submitting use agreements to the Department.

B. All such use agreements shall include a provision that requires of the amount of gross profit remaining after the remittance of the gaming tax to the Department, at least 35 percent of the profit after the tax to be distributed to the host location licensee.

C. A copy of the use agreement shall be maintained in the business office of both the operator and the host location and shall be available at all times for inspection by the Director. An operator shall file a copy of any such use agreement with the Director within 30 days after the execution of such agreement.

D. No person shall receive any portion of gross profits generated from electronic gaming devices located at a host location's premises except for the distributor, operator, and host location that are parties to the use agreement, except as approved by the Director in compliance with applicable rules and regulations adopted by the Board.

Article 3.

Authorization of Electronic Gaming Devices.

§ 58.1-4214. Approval of electronic gaming devices by the Director; minimum requirements.

A. No electronic gaming device shall be offered for play by the public in the Commonwealth unless such electronic gaming device has first been approved by the Director. The Director shall not approve more than 20,000 electronic gaming devices in the aggregate, as measured by electronic gaming devices approved for host location licensees for operation at any one time in the Commonwealth, and such approvals shall be determined by the Board.

B. Before selling or otherwise providing an electronic gaming device to a distributor, a manufacturer shall provide a prototype or production sample of such electronic gaming device to an independent testing laboratory that has been approved by the Director, which shall evaluate and certify whether such electronic gaming device meets the definition of electronic gaming device under § 58.1-4200, the requirements of § 58.1-4215, and any other requirements established in Board regulations.

A prototype or production sample of each type, version, or model of electronic gaming device being operated in the Commonwealth shall be tested by an independent testing laboratory approved by

the Director to ensure its integrity, level of skill required, and proper working order. This evaluation shall include a review of installed software periodically within a timeframe established by the Director.

The independent testing laboratory's software may be embedded within the game software, utilize an interface port to communicate with the device, or require the removal of device media for external verification.

C. Along with the prototype or production sample of the electronic gaming device, the manufacturer shall provide the following information concerning the electronic gaming device to the independent testing laboratory:

1. The method of determining the game outcome;
2. The available wagering denominations;
3. The minimum wager amount;
4. The maximum wager amount per play, which shall not exceed \$5;
5. The range of payouts for each wager. Payouts in excess of \$600 shall be paid via money order by the host location licensee;
6. The method of calculating winning payouts, including skill level achieved;
7. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;
8. The minimum payouts and the method of guaranteeing minimum payouts; and
9. Any other information requested by the independent testing laboratory or required by the Board for use in the testing of the electronic gaming device.

D. The report of the independent testing laboratory shall be submitted by the manufacturer to the Director. The Director shall use the report in evaluating whether the electronic gaming device shall be approved under this chapter.

E. If at any time a manufacturer makes a substantive change to game play or payouts for any electronic gaming device that has previously been approved by the Director, such manufacturer shall resubmit the electronic gaming device to the Director in a manner prescribed by Board regulation.

F. The manufacturer licensee shall pay the cost of the independent testing laboratory's review and testing, and the reports of the same shall be delivered to the licensee and the Director.

§ 58.1-4215. Minimum requirements of electronic gaming devices.

In addition to meeting the definition of electronic gaming device established in § 58.1-4200, electronic gaming devices shall:

1. Show the rules of play for each game in a way that adequately describes or displays such information so that a reasonable person could understand the game prior to placing a wager;

2. Accept only cash wagers or tickets generated from electronic gaming devices that may be redeemed for play at another electronic gaming device located on the same premises;

3. Prohibit the modification of the rules of play for a game, including the probability and award of a game outcome, once a game is initiated;

4. Prohibit the remote modification or manipulation of games, except as required or approved by the Director pursuant to the provisions of this chapter;

5. Pay out no more than \$ 500 in winnings for a single play of a game;

6. Have a power switch that is located inside of the device to prevent power from being switched off from outside of the device;

7. Be designed such that power and data cables into and out of the device are routed so that they are not accessible by the general public;

8. Have an identification badge or sufficient integrity affixed to the exterior of the device by the manufacturer that is not removable without leaving evidence of tampering. Such badge shall include the following information:

a. The name of the manufacturer;

b. A unique serial number;

c. The device model number; and

d. The date of manufacture;

9. Be constructed of materials that are designed to allow only authorized access to the interior of the device. Such materials shall be designed to show evidence of tampering if unauthorized access occurs;

10. Have seals between the device and the doors of a locked area that are designed to resist the use of tools or other objects used to breach the locked area by physical force;

11. Have external doors that are locked and monitored by door access sensors;

12. Have a currency storage area that is secured by two locks before the currency can be removed and that is only accessible by the operator licensee;

13. Make payments to successful players by issuing a voucher that can be redeemed for cash at the host location's ticket redemption terminal;

14. Have the ability to allow for an independent integrity check by an independent testing laboratory approved by the Director of all software that may affect the integrity of the game;

15. Be connected to the real time central accounting system established and operated by the Department under the provisions of § 58.1-4216;

16. Conform to all requirements of federal law and regulations, including the Federal Communications Commission's Class A emissions standards;

17. Have the ability to detect and display the device's complete play history and winnings for the previous 100 games;

18. Contain a non-resettable meter, which shall be located in a locked area of the device that is accessible only by a key;

19. Have the capability of storing the meter information for a minimum of 180 days after a power loss to the device; and

20. Comply with such other requirements as adopted by the Board.

§ 58.1-4216. Requirement for central accounting system.

A. Each electronic gaming device and ticket redemption terminal being operated in the Commonwealth shall be connected to a real time central accounting system established and operated by the Department. All electronic gaming devices shall automatically disable upon being disconnected from the central accounting system.

The central accounting system shall, at a minimum, collect the following information from each device: (i) cash in; (ii) payouts; (iii) points, credits, or amounts played; (iv) points, credits, or amounts won; (v) gross profit; (vi) the number of plays of the game; (vii) the amounts paid to play the game; (viii) the amount of gaming tax accrued; (ix) door openings; (x) power failures, disconnections from the central

accounting system, and malfunctions; (xi) remote activations and disabling; and (xii) any other information required by Board regulations.

The central accounting system shall not provide for the monitoring or reading of personal or financial information concerning players of electronic gaming devices. The central accounting system shall utilize slot accounting system capabilities and protocols.

The central accounting system shall not have the capability to control or in any way alter the play of any electronic gaming device.

B. Within 90 days after the end of each fiscal year, the category of licensee responsible for the remittance of the gaming tax as determined by the Board, shall submit to the Director a third party, independent audit of the financial transactions and condition of such licensee's total operations. All audits required by this subsection shall conform to Board regulations.

Article 4.

Taxation.

§ 58.1-4217. Gaming tax on gross profits.

A. 1. A gaming tax equal to 35 percent shall be imposed upon all gross profits generated from the play of electronic gaming devices.

2. The gaming tax imposed pursuant to this section shall not apply to any activity regulated under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 or Chapter 41 (§ 58.1-4100 et seq.).

B. An amount equal to five percent of the gross profits generated from the play of electronic gaming devices shall be deposited in the Gaming Regulatory Fund established pursuant to § 58.1-4048 to cover the costs of administration and oversight of electronic gaming devices, including the central accounting system, in accordance with the provisions of this chapter. Any amounts collected pursuant to this subsection that are deemed excess shall be transferred to the Elementary and Secondary Education Fund established pursuant to § 58.1-4219.

C. An amount equal to five percent of the gross profits generated from the play of electronic gaming devices shall be deposited in the College Partnership Laboratory School Fund established pursuant to § 22.1-349.2.

D. All gaming taxes collected pursuant to the provisions of this section shall accrue to the Electronic Gaming Proceeds Fund and be allocated as provided in subsection B of § 58.1-4218.

E. The Board shall promulgate regulations to determine which category of licensee is responsible for remitting the required tax. The gaming tax and gross profits collected pursuant to this section shall be collected by the Department at a frequency established by Board regulations and shall be accompanied by forms and returns prescribed by the Board. The Director may suspend or revoke a license for willful failure to submit any such payments or associated returns within the specific time.

F. After the remittance of the gaming tax by the required licensee, at least 35 percent of the remaining gross profit shall be provided to the host location licensee.

§ 58.1-4218. Electronic Gaming Proceeds Fund; distribution of gross profits and gaming tax revenue.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Electronic Gaming Proceeds Fund, referred to in this section as the "Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to this chapter shall be paid into the state treasury and credited to the Fund and interest earned on moneys in the Fund shall remain in the Fund and be credited to it.

B. Residual revenues from the Fund, after the allocation established pursuant to subsections B and C of § 58.1-4217, shall be apportioned by the Comptroller as follows:

1. Fifteen percent to the Department of Taxation for distribution to the locality in which the host location operates;

2. Two and a half percent to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2;

3. Seventy-five percent to the Elementary and Secondary Education Fund established pursuant to § 58.1-4219 for the purpose of elementary and secondary public education in the Commonwealth;

4. Two and a half percent to the Department of State Police to be used by the Office of the Gaming Enforcement Coordinator established pursuant to § 52-54; and

5. Five percent to the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601.

C. Allocation of funds pursuant to this section shall occur no later than 60 days after such funds are collected, and only after the Department has verified the accuracy of the collected balances.

§ 58.1-4219. Elementary and Secondary Education Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Elementary and Secondary Education Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall consist of (i) any gross receipts tax distributed pursuant to subdivision B 3 of § 58.1-4218; (ii) any other moneys appropriated to it by the General Assembly; and (iii) such other sums as may be made available to it from any other source, public or private, all of which shall be credited to the Fund.

Amounts appropriated from the Fund to the Commonwealth's counties, cities, and towns, and the school divisions thereof, shall be expended for the purposes of public elementary and secondary education.

Any county, city, or town that accepts a distribution from the Fund shall provide its portion of the cost of maintaining an educational program meeting the standards of quality prescribed pursuant to Section 2, Article VIII of the Constitution of Virginia without the use of distributions from the Fund.

B. For the purposes of the Comptroller's preliminary and final annual reports required by § 2.2-813, all deposits to and appropriations from the Fund shall be accounted for and considered to be a part of the general fund of the state treasury.

Article 5.

Prohibited Acts; Penalties, Etc.

§ 58.1-4220. Illegal manufacture, distribution, or hosting; penalty.

A. No person shall:

1. Manufacture, sell, or lease to any person electronic gaming devices or major components or parts, including software and hardware, for electronic gaming devices without a manufacturer license issued by the Director.

2. Distribute, sell, or lease to any person electronic gaming devices or major components or parts, including software or hardware, for electronic gaming devices, or purchase, own, operate, possess, or place in the Commonwealth electronic gaming devices, or maintain and service such devices without a distributor license issued by the Director.

3. Operate an establishment where one or more electronic gaming devices are made available for play by the public without a host location license issued by the Director.

4. Solicit, offer, or enter into any contract or agreement for the placement of an electronic gaming device until the distributor, operator, host location, and procurement agent, if applicable, are all issued a license by the Director pursuant to this chapter.

B. A violation of this section is a Class 6 felony.

§ 58.1-4221. Underage play prohibited; penalty.

A. No person younger than 21 years of age shall be eligible to operate an electronic gaming device regulated pursuant to this chapter. A distributor licensee shall adhere to the front of all electronic gaming devices a notice in 16-point Times New Roman bold font that states the following: "No person shall play any electronic gaming device or enter the gaming area unless such person is 21 years of age or older."

B. No person shall redeem any evidence of winnings from any person who is not 21 years of age or older.

C. A violation of this section is a Class 1 misdemeanor.

§ 58.1-4222. Prohibited acts by host location licensees; penalty.

A. No host location licensee or its employees or agents shall:

1. Knowingly permit any person who is not 21 years of age or older to play any electronic gaming device or enter the gaming area;

2. Give any reward for the play of an electronic gaming device that is not authorized by this chapter;

3. Give any reward for the play of an electronic gaming device that is redeemable at a location other than the host location's ticket redemption terminal;

4. Accept any inducement from a distributor licensee; or

5. Extend credit to any person for the purpose of playing any electronic gaming device.

B. A violation of this section is a Class 1 misdemeanor.

§ 58.1-4223. Illegal tampering with electronic gaming devices; penalty.

No person other than an operator licensee shall possess or use any key or device designed for the purpose of opening, entering, or affecting the operation of an electronic gaming device or otherwise tamper with an electronic gaming device. A violation of this section is a Class 6 felony.

§ 58.1-4224. Conspiracies and attempts to commit violations; penalty.

A. Any person who conspires, confederates, or combines with another, either within or outside of the Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 6 felony.

B. Any person who attempts to commit any act prohibited by this chapter is guilty of a criminal offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

§ 58.1-4225. Exclusion from the applicability of this chapter.

This chapter shall not apply to sports betting authorized under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 or casino gaming authorized under Chapter 41 (§ 58.1-4100 et seq.).

§ 58.1-4226. Certain provisions in Article 1 (§ 58.1-4000 et seq.) of Chapter 40 to apply mutatis mutandis.

Except as provided in this chapter, the provisions of Article 1 (§ 58.1-4000 et seq.) of Chapter 40 shall apply mutatis mutandis to electronic gaming devices under this chapter. The Board shall promulgate regulations to interpret and clarify the applicability of Article 1 to this chapter.

2. That the initial adoption by the Virginia Lottery Board (the Board) of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption.

- 3. That the initial procurement by the Virginia Lottery of the central accounting system required by § 58.1-4216 of the Code of Virginia, as created by this act, shall be exempt from the departmental procurement regulations promulgated by the Virginia Lottery Board pursuant to § 58.1-4007 of the Code of Virginia, as amended by this act.**
- 4. That any contract, or portion of a contract, entered into prior to January 1, 2025, that does not comply with the provisions of this act shall not be given consideration in connection with the submission of any application for a license pursuant to Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 of the Code of Virginia, as created by this act.**
- 5. That the Virginia Lottery (the Department) is authorized to begin accepting applications for licensure in accordance with the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 of the Code of Virginia, as created by this act, on January 1, 2025. Licenses shall be issued no later than July 1, 2025, but shall not become effective until the real time central accounting system is fully functional. Notwithstanding the provisions of § 58.1-4205 of the Code of Virginia, as created by this act, the Department may, for an amount of time to be determined by the Virginia Lottery Board, require an applicant for licensure to pay all application fees at the time the applicant submits its application to the Department. Any applicant who, during such period, submits an application and accompanying fee, but is not granted a license by the Department shall be reimbursed. The Director shall, beginning July 30, 2024, provide quarterly status updates to the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Appropriations, Senate Committee on General Laws and Technology, and House Committee on General Laws and to the Governor on the status and implementation of this act, including the procurement of the real time central accounting system.**
- 6. That the Secretary of Finance shall approve a short-term, interest-free, state-supported treasury loan in an amount up to \$25 million to the Virginia Lottery to support the procurement and implementation of a real time central accounting system for electronic gaming devices in accordance with the provisions of § 58.1-4216 of the Code of Virginia, as created by this act.**

7. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

2. After line 1615, enrolled

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8. That, notwithstanding the provisions of the first enactment of this act, no distributor, operator, or host location licensee shall place or maintain any electronic gaming device within any host location's premises that is located within (i) 35 miles of any casino gaming establishment authorized pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 of the Code of Virginia or (ii) 35 miles of any racetrack or satellite facility operated by a limited license holder, as those terms are defined in § 59.1-365 of the Code of Virginia.

Sincerely,

Glenn Youngkin