DRAFTS RECOMMENDED BY RECORDS SUBCOMMITTEE
SENATE BILL NO.    HOUSE BILL NO.

A BILL to amend and reenact §§ 2.2-3705.1 and 2.2-3705.8 of the Code of Virginia, relating to the
Virginia Freedom of Information Act; personnel record exemption.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.1 and 2.2-3705.8 of the Code of Virginia are amended and reenacted as
follows:

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to
public bodies.

The following records are excluded from the provisions of this chapter but may be disclosed by
the custodian in his discretion, except where such disclosure is prohibited by law:

1. Personnel records containing information concerning identifiable individuals, except that
access shall not be denied to the person who is the subject thereof. Any person who is the subject of any
personnel record and who is 18 years of age or older may waive, in writing, the protections afforded by
this subdivision. If the protections are so waived, the public body shall open such records for inspection
and copying.

No provision of this chapter or Chapter 38 (§ 2.2-3800 et seq.) shall be construed as denying
public access to (i) contracts between a public body and its officers or employees, other than contracts
settling public employee employment disputes exempted under this subdivision; [VWagner2] (ii) records
of the name, position, job classification, official salary, or rate of pay of, and records of the allowances
or reimbursements for expenses paid to, any officer, official, or employee of a public body; or (iii)
[VWagner3] the compensation or benefits paid by any corporation organized by the Virginia Retirement
System or its officers or employees. The provisions of this subdivision, however, shall not require public
access to records of the official salaries or rates of pay of public employees whose annual rate of
pay [LHausenfluck5] is $10,000 or less.

2. Written advice of legal counsel to state, regional or local public bodies or the officers or
employees of such public bodies, and any other records protected by the attorney-client privilege.
3. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.

4. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test or examination and (b) any other document that would jeopardize the security of the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by law, or limit access to individual records as provided by law. However, the subject of such employment tests shall be entitled to review and inspect all records relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, the test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

6. Vendor proprietary information software that may be in the official records of a public body. For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.
7. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

8. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

9. Records concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of this title, or by any county, city, or town; and investigative notes, correspondence and information furnished in confidence with respect to an investigation of a claim or a potential claim against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision shall prohibit the disclosure of information taken from inactive reports upon expiration of the period of limitations for the filing of a civil suit.

10. Personal information, as defined in § 2.2-3801, including electronic mail addresses, furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. However, access shall not be denied to the person who is the subject of the record.

11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

12. Records relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such records would adversely affect the bargaining position or negotiating strategy of the public body. Such records shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of records relating to such transactions shall be governed by the Virginia Public Procurement Act.

13. Those portions of records that contain account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. However, access shall not be denied to the person who is the subject of the record. For the purposes of this
subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan companies or associations, and credit unions.

§ 2.2-3705.8. Limitation on record exclusion for certain consultant's reports.

A. [I.Hauenfluck4] Neither any provision of this chapter nor any provision of Chapter 38 (§ 2.2-3800 et seq.) of this title shall be construed as denying public access to (i) contracts between a public body and its officers or employees, other than contracts settling public employee employment disputes held confidential as personnel records under § 2.2-3705.1; (ii) records of the position, job classification, official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees.

The provisions of this subsection, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is $10,000 or less.

B. Nothing in this chapter shall be construed as denying public access to the nonexempt portions of a report of a consultant hired by or at the request of a local public body or the mayor or chief executive or administrative officer of such public body if (i) the contents of such report have been distributed or disclosed to members of the local public body or (ii) the local public body has scheduled any action on a matter that is the subject of the consultant's report.

2. That the provisions of this act are declaratory of existing law.
SENATE BILL NO. 323
HOUSE BILL NO. 428

A BILL to amend and reenact § 2.2-3705.1 of the Code of Virginia, relating to the Virginia Freedom of Information Act; record exemption for certain contact information.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Personnel records containing information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of any personnel record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

2. Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other records protected by the attorney-client privilege.

3. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.

4. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test or examination and (b) any other document that would jeopardize the security of the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as
provided by law, or limit access to individual records as provided by law. However, the subject of such
employment tests shall be entitled to review and inspect all records relative to his performance on such
employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has
any potential for future use, and the security of future tests or examinations will not be jeopardized, the
test or examination shall be made available to the public. However, minimum competency tests
administered to public school children shall be made available to the public contemporaneously with
statewide release of the scores of those taking such tests, but in no event shall such tests be made
available to the public later than six months after the administration of such tests.

5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant
to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be
deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

6. Vendor proprietary information software that may be in the official records of a public body.
For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired
from a vendor for purposes of processing data for agencies or political subdivisions of the
Commonwealth.

7. Computer software developed by or for a state agency, state-supported institution of higher
education or political subdivision of the Commonwealth.

8. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease,
prior to the completion of such purchase, sale or lease.

9. Records concerning reserves established in specific claims administered by the Department of
the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of
Chapter 18 of this title, or by any county, city, or town; and investigative notes, correspondence and
information furnished in confidence with respect to an investigation of a claim or a potential claim
against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision
shall prohibit the disclosure of information taken from inactive reports upon expiration of the period of
limitations for the filing of a civil suit.
10. Personal contact information, as defined in § 2.2-3801, including electronic mail addresses, furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. However, access shall not be denied to the person who is the subject of the record. As used in this subdivision, "personal contact information" means home address, home telephone number, personal cell phone number, or personal email address.

11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

12. Records relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such records would adversely affect the bargaining position or negotiating strategy of the public body. Such records shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of records relating to such transactions shall be governed by the Virginia Public Procurement Act.

13. Those portions of records that contain account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. However, access shall not be denied to the person who is the subject of the record. For the purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan companies or associations, and credit unions.

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SENATE BILL NO.  ___________ HOUSE BILL NO.  ___________

1 A BILL to amend and reenact § 2.2-3705.7 of the Code of Virginia, relating to the Virginia Freedom of
2 Information Act; record exemption for certain tax and scholastic information.

3 Be it enacted by the General Assembly of Virginia:

4 1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted as follows:
5 § 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and
certain other limited exemptions.

7 The following records are excluded from the provisions of this chapter but may be disclosed by
the custodian in his discretion, except where such disclosure is prohibited by law:
8 1. State income, business, and estate tax returns, personal property tax returns, scholastic—and
8 confidential records held pursuant to § 58.1-3.
9 2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the
10 Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
11 Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any
12 political subdivision of the Commonwealth; or the president or other chief executive officer of any
13 public institution of higher education in Virginia. However, no record, which is otherwise open to
14 inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to or
15 incorporated within any working paper or correspondence.

18 As used in this subdivision:

19 "Members of the General Assembly" means each member of the Senate of Virginia and the
20 House of Delegates and their legislative aides when working on behalf of such member.
21 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy,
22 Cabinet Secretaries, and the Assistant to the Governor for Intergovernmental Affairs; and those
23 individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.
24 "Working papers" means those records prepared by or for an above-named public official for his
25 personal or deliberative use.
3. Library records that can be used to identify both (i) any library patron who has borrowed
material from a library and (ii) the material such patron borrowed.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation
in awarding contracts for construction or the purchase of goods or services, and records and automated
systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,
whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by
the political subdivision.

6. Records and writings furnished by a member of the General Assembly to a meeting of a
standing committee, special committee or subcommittee of his house established solely for the purpose
of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of
formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the
Commonwealth, including the customer's name and service address, but excluding the amount of utility
service provided and the amount of money paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing
Development Authority concerning individuals who have applied for or received loans or other housing
assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise
assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or
persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local
redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or
persons on the waiting list for housing assistance programs funded by local governments or by any such
authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or
any other local government agency concerning persons who have applied for occupancy or who have
occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access
to one's own information shall not be denied.
9. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

10. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

11. Records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to 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: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system 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) disclosure of such confidential analyses would have an adverse effect on the value of the
investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the
University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
construed to prevent the disclosure of records relating to the identity of any investment held, the amount
invested, or the present value of such investment.

13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the
Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing
that the Department not release such information.

14. Financial, medical, rehabilitative and other personal information concerning applicants for or
recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

15. Records of the Virginia Commonwealth University Health System Authority pertaining to
any of the following: an individual’s qualifications for or continued membership on its medical or
teaching staffs; proprietary information gathered by or in the possession of the Authority from third
parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
awarding contracts for construction or the purchase of goods or services; data, records or information of
a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
staffs; financial statements not publicly available that may be filed with the Authority from third parties;
the identity, accounts or account status of any customer of the Authority; consulting or other reports paid
for by the Authority to assist the Authority in connection with its strategic planning and goals; the
determination of marketing and operational strategies where disclosure of such strategies would be
harmful to the competitive position of the Authority; and data, records or information of a proprietary
nature produced or collected by or for employees of the Authority, other than the Authority’s financial or
administrative records, in the conduct of or as a result of study or research on medical, scientific,
technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
governmental body or a private concern, when such data, records or information have not been publicly
released, published, copyrighted or patented.
16. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

17. As it pertains to any person, records related to the operation of toll facilities that identify an individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

18. Records of the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

19. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

20. Records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents, employees or persons employed to perform an audit or examination of holder records.

21. Records of the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing
body, to the extent that such records reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

22. Records of state or local park and recreation departments and local and regional park authorities to the extent such records contain information identifying a person under the age of 18 years. However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent’s parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For records of such persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the record may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

23. Records submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management, to the extent that they reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.


25. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

   a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such
managers, to the extent that disclosure of such records would have an adverse impact on the financial 
interest of the retirement system or the Virginia College Savings Plan; and 
b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a 
private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of 
such records would have an adverse impact on the financial interest of the retirement system or the 
Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the 
entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which 
protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the 
requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or 
amount of any investment held or the present value and performance of all asset classes and subclasses.


27. Records maintained by the Department of the Treasury or participants in the Local 
Government Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information 
required to be provided by such participants to the Department to establish accounts in accordance with 
§ 2.2-4602.

28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center 
Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care 
Centers, except that access shall not be denied to the person who is the subject of the record.

29. Records maintained in connection with fundraising activities by the Veterans Services 
Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail 
address, facsimile or telephone number, social security number or other identification number appearing
on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

30. Names, physical addresses, telephone numbers, and email addresses contained in correspondence between an individual and a member of the governing body, school board, or other public body of the locality in which the individual is a resident, unless the correspondence relates to the transaction of public business. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any such correspondence.

31. Records of the Commonwealth's Attorneys' Services Council, to the extent such records are prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such records are not otherwise available to the public and the release of such records would reveal confidential strategies, methods or procedures to be employed in law-enforcement activities, or materials created for the investigation and prosecution of a criminal case.

32. Records provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft, where the records would not be subject to disclosure by the entity providing the records. The entity providing the records to the Department of Aviation shall identify the specific portion of the records to be protected and the applicable provision of this chapter that exempts the record or portions thereof from mandatory disclosure.

33. Records created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.
SENATE BILL NO._______ HOUSE BILL NO._______

A BILL to amend and reenact § 2.2-3705.7 of the Code of Virginia, relating to the Virginia Freedom of Information Act; record exemption for certain customer account information.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exemptions.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. State income, business, and estate tax returns, personal property tax returns, scholastic and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no record, which is otherwise open to inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.
3. Library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.
9. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

10. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

11. Records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to 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: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system 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) disclosure of such confidential analyses would have an adverse effect on the value of the
investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the
University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
construed to prevent the disclosure of records relating to the identity of any investment held, the amount
invested, or the present value of such investment.

13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the
Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing
that the Department not release such information.

14. Financial, medical, rehabilitative and other personal information concerning applicants for or
recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

15. Records of the Virginia Commonwealth University Health System Authority pertaining to
any of the following: an individual's qualifications for or continued membership on its medical or
teaching staffs; proprietary information gathered by or in the possession of the Authority from third
parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
awarding contracts for construction or the purchase of goods or services; data, records or information of
a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
staffs; financial statements not publicly available that may be filed with the Authority from third parties;
the identity, accounts or account status of any customer of the Authority; consulting or other reports paid
for by the Authority to assist the Authority in connection with its strategic planning and goals; the
determination of marketing and operational strategies where disclosure of such strategies would be
harmful to the competitive position of the Authority; and data, records or information of a proprietary
nature produced or collected by or for employees of the Authority, other than the Authority's financial or
administrative records, in the conduct of or as a result of study or research on medical, scientific,
technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
governmental body or a private concern, when such data, records or information have not been publicly
released, published, copyrighted or patented.
16. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

17. As it pertains to any person, records related to the operation of toll facilities that identify an individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

18. Records of the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

19. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

20. Records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents, employees or persons employed to perform an audit or examination of holder records.

21. Records of the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing
body, to the extent that such records reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

22. Records of state or local park and recreation departments and local and regional park authorities to the extent such records contain information identifying a person under the age of 18 years. However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For records of such persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the record may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

23. Records submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management, to the extent that they reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.


25. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such
managers, to the extent that disclosure of such records would have an adverse impact on the financial
interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a
private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of
such records would have an adverse impact on the financial interest of the retirement system or the
Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the
entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which
protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the
requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or
amount of any investment held or the present value and performance of all asset classes and subclasses.


27. Records maintained by the Department of the Treasury or participants in the Local
Government Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information
required to be provided by such participants to the Department to establish accounts in accordance with
§ 2.2-4602.

28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center
Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care
Centers, except that access shall not be denied to the person who is the subject of the record.

29. Records maintained in connection with fundraising activities by the Veterans Services
Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail
address, facsimile or telephone number, social security number or other identification number appearing
on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

30. Names, physical addresses, telephone numbers, and email addresses contained in correspondence between an individual and a member of the governing body, school board, or other public body of the locality in which the individual is a resident, unless the correspondence relates to the transaction of public business. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any such correspondence.

31. Records of the Commonwealth's Attorneys' Services Council, to the extent such records are prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such records are not otherwise available to the public and the release of such records would reveal confidential strategies, methods or procedures to be employed in law-enforcement activities, or materials created for the investigation and prosecution of a criminal case.

32. Records provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft, where the records would not be subject to disclosure by the entity providing the records. The entity providing the records to the Department of Aviation shall identify the specific portion of the records to be protected and the applicable provision of this chapter that exempts the record or portions thereof from mandatory disclosure.

33. Records created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.
SENATE BILL NO. ______  HOUSE BILL NO. ______

A BILL to amend and reenact § 2.2-3705.7 of the Code of Virginia, relating to the Virginia Freedom of
Information Act; record exemption for Virginia Wildlife magazine.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and
certain other limited exemptions.

The following records are excluded from the provisions of this chapter but may be disclosed by
the custodian in his discretion, except where such disclosure is prohibited by law:

1. State income, business, and estate tax returns, personal property tax returns, scholastic and
confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the
Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any
political subdivision of the Commonwealth; or the president or other chief executive officer of any
public institution of higher education in Virginia. However, no record, which is otherwise open to
inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to or
incorporated within any working paper or correspondence.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the
House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy,
Cabinet Secretaries, and the Assistant to the Governor for Intergovernmental Affairs; and those
individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for an above-named public official for his
personal or deliberative use.
3. Library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.
9. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

10. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

11. Records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to 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: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system 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) disclosure of such confidential analyses would have an adverse effect on the value of the
investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the
University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
construed to prevent the disclosure of records relating to the identity of any investment held, the amount
invested, or the present value of such investment.

13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the
Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing
that the Department not release such information.

14. Financial, medical, rehabilitative and other personal information concerning applicants for or
recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

15-14. Records of the Virginia Commonwealth University Health System Authority pertaining to
any of the following: an individual's qualifications for or continued membership on its medical or
teaching staffs; proprietary information gathered by or in the possession of the Authority from third
parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
awarding contracts for construction or the purchase of goods or services; data, records or information of
a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
staffs; financial statements not publicly available that may be filed with the Authority from third parties;
the identity, accounts or account status of any customer of the Authority; consulting or other reports paid
for by the Authority to assist the Authority in connection with its strategic planning and goals; the
determination of marketing and operational strategies where disclosure of such strategies would be
harmful to the competitive position of the Authority; and data, records or information of a proprietary
nature produced or collected by or for employees of the Authority, other than the Authority's financial or
administrative records, in the conduct of or as a result of study or research on medical, scientific,
technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
governmental body or a private concern, when such data, records or information have not been publicly
released, published, copyrighted or patented.
16-15. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

17-16. As it pertains to any person, records related to the operation of toll facilities that identify an individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

18-17. Records of the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

19-18. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

20-19. Records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents, employees or persons employed to perform an audit or examination of holder records.

21-20. Records of the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local
governing body, to the extent that such records reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

22-21. Records of state or local park and recreation departments and local and regional park authorities to the extent such records contain information identifying a person under the age of 18 years. However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For records of such persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the record may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

23-22. Records submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management, to the extent that they reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.


25-24. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such
managers, to the extent that disclosure of such records would have an adverse impact on the financial
interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a
private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of
such records would have an adverse impact on the financial interest of the retirement system or the
Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the
entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which
protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the
requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or
amount of any investment held or the present value and performance of all asset classes and subclasses.


27-26. Records maintained by the Department of the Treasury or participants in the Local
Government Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information
required to be provided by such participants to the Department to establish accounts in accordance with
§ 2.2-4602.

28-27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center
Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care
Centers, except that access shall not be denied to the person who is the subject of the record.

29-28. Records maintained in connection with fundraising activities by the Veterans Services
Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail
address, facsimile or telephone number, social security number or other identification number appearing
on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

30.29. Names, physical addresses, telephone numbers, and email addresses contained in correspondence between an individual and a member of the governing body, school board, or other public body of the locality in which the individual is a resident, unless the correspondence relates to the transaction of public business. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any such correspondence.

31. Records of the Commonwealth's Attorneys' Services Council, to the extent such records are prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such records are not otherwise available to the public and the release of such records would reveal confidential strategies, methods or procedures to be employed in law-enforcement activities, or materials created for the investigation and prosecution of a criminal case.

32. Records provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft, where the records would not be subject to disclosure by the entity providing the records. The entity providing the records to the Department of Aviation shall identify the specific portion of the records to be protected and the applicable provision of this chapter that exempts the record or portions thereof from mandatory disclosure.

33. Records created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

#
A BILL to amend and reenact § 2.2-3705.7 of the Code of Virginia, relating to the Virginia Freedom of Information Act; record exemption for certain correspondence.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exemptions.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. State income, business, and estate tax returns, personal property tax returns, scholastic and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no record, which is otherwise open to inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.
3. Library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.
9. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

10. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

11. Records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to 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: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system 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) disclosure of such confidential analyses would have an adverse effect on the value of the
investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the
University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
construed to prevent the disclosure of records relating to the identity of any investment held, the amount
invested, or the present value of such investment.

13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the
Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing
that the Department not release such information.

14. Financial, medical, rehabilitative and other personal information concerning applicants for or
recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

15. Records of the Virginia Commonwealth University Health System Authority pertaining to
any of the following: an individual's qualifications for or continued membership on its medical or
teaching staffs; proprietary information gathered by or in the possession of the Authority from third
parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
awarding contracts for construction or the purchase of goods or services; data, records or information of
a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
staffs; financial statements not publicly available that may be filed with the Authority from third parties;
the identity, accounts or account status of any customer of the Authority; consulting or other reports paid
for by the Authority to assist the Authority in connection with its strategic planning and goals; the
determination of marketing and operational strategies where disclosure of such strategies would be
harmful to the competitive position of the Authority; and data, records or information of a proprietary
nature produced or collected by or for employees of the Authority, other than the Authority's financial or
administrative records, in the conduct of or as a result of study or research on medical, scientific,
technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
governmental body or a private concern, when such data, records or information have not been publicly
released, published, copyrighted or patented.
16. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

17. As it pertains to any person, records related to the operation of toll facilities that identify an individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

18. Records of the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

19. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

20. Records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents, employees or persons employed to perform an audit or examination of holder records.

21. Records of the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing
body, to the extent that such records reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

22. Records of state or local park and recreation departments and local and regional park authorities to the extent such records contain information identifying a person under the age of 18 years. However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For records of such persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the record may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

23. Records submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management, to the extent that they reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.


25. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such
managers, to the extent that disclosure of such records would have an adverse impact on the financial
interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a
private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of
such records would have an adverse impact on the financial interest of the retirement system or the
Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the
entity shall make a written request to the retirement system or the Virginia College Savings Plan:

1. Invoking such exclusion prior to or upon submission of the data or other materials for which
protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the
requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or
amount of any investment held or the present value and performance of all asset classes and subclasses.


27. Records maintained by the Department of the Treasury or participants in the Local
Government Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information
required to be provided by such participants to the Department to establish accounts in accordance with
§ 2.2-4602.

28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center
Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care
Centers, except that access shall not be denied to the person who is the subject of the record.

29. Records maintained in connection with fundraising activities by the Veterans Services
Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail
address, facsimile or telephone number, social security number or other identification number appearing
on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

30. Names, physical addresses, telephone numbers, and email addresses contained in correspondence between an individual and a member of the governing body, school board, or other public body of the locality in which the individual is a resident, unless the correspondence relates to the transaction of public business. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any such correspondence.

31. Records of the Commonwealth's Attorneys' Services Council, to the extent such records are prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such records are not otherwise available to the public and the release of such records would reveal confidential strategies, methods or procedures to be employed in law-enforcement activities, or materials created for the investigation and prosecution of a criminal case.

32. Records provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft, where the records would not be subject to disclosure by the entity providing the records. The entity providing the records to the Department of Aviation shall identify the specific portion of the records to be protected and the applicable provision of this chapter that exempts the record or portions thereof from mandatory disclosure.

33. Records created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.
A BILL to amend and reenact § 2.2-3705.7 of the Code of Virginia, relating to the Virginia Freedom of
Information Act; working papers and correspondence.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and
 certain other limited exemptions.

The following records are excluded from the provisions of this chapter but may be disclosed by
the custodian in his discretion, except where such disclosure is prohibited by law:

1. State income, business, and estate tax returns, personal property tax returns, scholastic and
 confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor;
the Attorney General, the members of the General Assembly, the Division of Legislative Services, or
the Clerks of the House of Delegates and, or the Senate of Virginia; the mayor or chief executive officer
of any political subdivision of the Commonwealth; or the president or other chief executive officer of
any public institution of higher education in Virginia. However, no record, which is otherwise open
to inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to
or incorporated within any working paper or correspondence.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the
House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor, his chief of staff, counsel, director
of policy, and Cabinet Secretaries, and the Assistant to the Governor for Intergovernmental Affairs, and
those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records, including correspondence, prepared by or for an above-
named public official for his personal or deliberative use.
3. Library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.
9. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

10. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

11. Records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to 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: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system 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) disclosure of such confidential analyses would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of records relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

14. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

15. Records of the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly
released, published, copyrighted or patented. This exemption shall also apply when such records are in the possession of the Virginia Commonwealth University.

16. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

17. As it pertains to any person, records related to the operation of toll facilities that identify an individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

18. Records of the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

19. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

20. Records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents, employees or persons employed to perform an audit or examination of holder records.
21. Records of the Virginia Department of Emergency Management or a local governing body
relating to citizen emergency response teams established pursuant to an ordinance of a local governing
body, to the extent that such records reveal the name, address, including e-mail address, telephone or
pager numbers, or operating schedule of an individual participant in the program.

22. Records of state or local park and recreation departments and local and regional park
authorities to the extent such records contain information identifying a person under the age of 18 years.
However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as
directory information under regulations implementing the Family Educational Rights and Privacy Act,
20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out
requirements provided by such regulations. Access shall not be denied to the parent, including a
noncustodial parent, or guardian of such person, unless the parent’s parental rights have been terminated
or a court of competent jurisdiction has restricted or denied such access. For records of such persons
who are emancipated, the right of access may be asserted by the subject thereof. Any parent or
emancipated person who is the subject of the record may waive, in writing, the protections afforded by
this subdivision. If the protections are so waived, the public body shall open such records for inspection
and copying.

23. Records submitted for inclusion in the Statewide Alert Network administered by the
Department of Emergency Management, to the extent that they reveal names, physical addresses, email
addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless
or portable communications device information, or operating schedules of individuals or agencies,
where the release of such information would compromise the security of the Statewide Alert Network or
individuals participating in the Statewide Alert Network.


25. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local
retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement
system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:
a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, to the extent that disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.


27. Records maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the record.
29. Records maintained in connection with fundraising activities by the Veterans Services
Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail
address, facsimile or telephone number, social security number or other identification number appearing
on a driver’s license, or credit card or bank account data of identifiable donors, except that access shall
not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall
be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of
the pledge or donation or the identity of the donor, unless the donor has requested anonymity in
connection with or as a condition of making a pledge or donation. The exclusion provided by this
subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or
contracting with the foundation for the performance of services or other work or (ii) the terms and
conditions of such grants or contracts.

30. Names, physical addresses, telephone numbers, and email addresses contained in
correspondence between an individual and a member of the governing body, school board, or other
public body of the locality in which the individual is a resident, unless the correspondence relates to the
transaction of public business. However, no record that is otherwise open to inspection under this
chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within
any such correspondence.

31. Records of the Commonwealth’s Attorneys’ Services Council, to the extent such records are
prepared for and utilized by the Commonwealth’s Attorneys’ Services Council in the training of state
prosecutors or law-enforcement personnel, where such records are not otherwise available to the public
and the release of such records would reveal confidential strategies, methods or procedures to be
employed in law-enforcement activities, or materials created for the investigation and prosecution of a
criminal case.

32. Records provided to the Department of Aviation by other entities of the Commonwealth in
connection with the operation of aircraft, where the records would not be subject to disclosure by the
entity providing the records. The entity providing the records to the Department of Aviation shall
identify the specific portion of the records to be protected and the applicable provision of this chapter
that exempts the record or portions thereof from mandatory disclosure.

33. Records created or maintained by or on the behalf of the judicial performance evaluation
program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

34. (Effective July 1, 2018) Records of the Virginia Alcoholic Beverage Control Authority to the
extent such records contain (i) information of a proprietary nature gathered by or in the possession of the
Authority from a private entity pursuant to a promise of confidentiality; (ii) trade secrets, as defined in
the Uniform Trade Secrets Act (§ 59.1-336 et seq.), of any private entity; (iii) financial records of a
private entity, including balance sheets and financial statements, that are not generally available to the
public through regulatory disclosure or otherwise; (iv) contract cost estimates prepared for the (a)
confidential use in awarding contracts for construction or (b) purchase of goods or services; or (v) the
determination of marketing and operational strategies where disclosure of such strategies would be
harmful to the competitive position of the Authority.

In order for the records identified in clauses (i) through (iii) to be excluded from the provisions
of this chapter, the private entity shall make a written request to the Authority:

a. Invoking such exclusion upon submission of the data or other materials for which protection
from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to
protect such records of the private entity. The Authority shall make a written determination of the nature
and scope of the protection to be afforded by it under this subdivision.

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SENATE BILL NO. _________ HOUSE BILL NO. _________


Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.3, 2.2-3711, and 22.1-253.13:3 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. (Effective until July 1, 2018) Confidential records of all investigations of applications for licenses and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

1. (Effective July 1, 2018) Confidential records of all investigations of applications for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.
3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Records of studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate
authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body. Records of completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall include, but not be limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. Information furnished in confidence to the Department of Human Resource Management with respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda, correspondence and other records resulting from any such investigation, consultation or mediation. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

9. The names, addresses and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.
40-10. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

41-10. Records furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

42-11. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation conducted by or for the Board of Education related to the denial, suspension, or revocation of teacher licenses. However, this subdivision shall not prohibit the disclosure of records to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Records of completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The records disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information in the records regarding a current or former student shall be released except as permitted by state or federal law.

43-12. Records, notes and information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42
of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

§ 2.2-3711. 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.

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 Virginia public institution of higher education 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; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. 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. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and 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 Virginia 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 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 any legal
entity 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.

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia
Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of
Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

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

11. Discussion or consideration of tests, examinations, or other records excluded from this
chapter pursuant to subdivision 4 of § 2.2-3705.1.

12. 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.

13. 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.

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

15. Discussion or consideration of medical and mental health records excluded from this chapter
pursuant to subdivision 1 of § 2.2-3705.5.

16. 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 exempted from disclosure under subdivision 6 of § 2.2-3705.3
and subdivision 11 of § 2.2-3705.7.
17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Those portions of meetings in which the Board of Corrections 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 records excluded from this chapter pursuant to subdivision 3 or 4 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 of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23-38.80, 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 Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system 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, the Rector and
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, and 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.

22. Those portions of meetings of the University of Virginia Board of Visitors 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. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
contracts for services or work to be performed by the Authority; marketing or operational strategies
where disclosure of such strategies would adversely affect the competitive position of the Authority;
members of its medical and teaching staffs and qualifications for appointments thereto; and
qualifications or evaluations of other employees. This exemption shall also apply when the foregoing
discussions occur at a meeting of the Virginia Commonwealth University Board of Visitors.

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 4.9 (§ 23-38.75 et seq.) of Title
23 is discussed.

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee
created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-
336 et seq.), 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 records excluded from this chapter pursuant to 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 records excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of records excluded from this chapter pursuant to subdivision 9 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. [Expired.]

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

34. 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 records and trade secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

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

36. 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 records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision 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.
38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. 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 § 23-38.80, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6.

41. Discussion or consideration by the Board of Education of records relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.3.

42. 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 records excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.2.

43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

44. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of records excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of §
10.1-104.7. This exemption 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.

47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

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.

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include, but not be limited to, student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, course and credit requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board shall review annually the accreditation status of all schools in the Commonwealth. However, the Board may review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board may accredit the school for another three years. The Board shall review the accreditation status of any school that (i) in any individual year within the triennial review period would have failed to achieve full accreditation or (ii) in the previous year has had an adjustment of its boundaries by a school board pursuant to subdivision 4 of § 22.1-79 that affects at least 10 percent of the student population of the school.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of Education. Each local school board shall review the accreditation status of all schools in the local school division annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the standards as approved by the Board.
When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, the Board may require a division level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit for approval by the Board a corrective action plan, consistent with criteria established by the Board and setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

With such funds as are appropriated or otherwise received for this purpose, the Board shall adopt and implement an academic review process, to be conducted by the Department of Education, to assist schools that are accredited with warning. The Department shall forward a report of each academic review to the relevant local school board, and such school board shall report the results of such academic review and the required annual progress reports in public session. The local school board shall implement any actions identified through the academic review and utilize them for improvement planning.

B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. The Superintendent of Public Instruction shall annually identify to the Board those school divisions and schools that exceed or do not meet the approved criteria. Such identification shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.
The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board of Education shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. The Department of Education shall make available to school divisions Standards of Learning assessments typically administered by the middle and high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

The Board shall also provide the option of industry certification and state licensure examinations as a student-selected verified credit.

The Board of Education shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the ability to test students on demand and provide immediate results in the web-based assessment system.

The Board shall include in the student outcome measures that are required by the Standards for Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.
The Standards of Learning assessments administered to students in grades three through eight shall not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and science in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, and mathematics in grade eight; (e) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (f) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board.

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall (1) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (2) permit and encourage integrated assessments that include multiple subject areas; and (3) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

In addition, to assess the educational progress of students, the Board of Education shall (A) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (B) select appropriate industry certification and state licensure examinations; and (C) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels. An annual justification that includes evidence that the student meets the participation criteria defined by the
Virginia Department of Education shall be provided for each student considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall review such justification and make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the student. The superintendent and the school board chairman shall certify to the Board of Education, as a part of certifying compliance with the Standards of Quality, that there is a justification in the Individual Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with this requirement shall be monitored as a part of the special education monitoring process conducted by the Department of Education. The Board shall report to the Governor and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination approved by the Board of Education or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

The Department of Education shall develop processes for informing school divisions of changes in the Standards of Learning.

The Board of Education may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board of Education shall provide notice to local school boards regarding such special provisions.

D. The Board of Education may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students.
from testing who are required to be assessed, by local school board employees responsible for the
distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a
review or investigation may be withheld pursuant to subdivision § 2.2-3705.3. However, this
section shall not prohibit the disclosure of records to (i) a local school board or division superintendent
for the purpose of permitting such board or superintendent to consider or to take personnel action with
regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form
that (a) does not reveal the identity of any person making a complaint or supplying information to the
Board on a confidential basis and (b) does not compromise the security of any test mandated by the
Board. Any local school board or division superintendent receiving such records or other information
shall, upon taking personnel action against a relevant employee, place copies of such records or
information relating to the specific employee in such person's personnel file.

Notwithstanding any other provision of state law, no test or examination authorized by this
section, including the Standards of Learning assessments, shall be released or required to be released as
minimum competency tests, if, in the judgment of the Board, such release would breach the security of
such test or examination or deplete the bank of questions necessary to construct future secure tests.

E. With such funds as may be appropriated, the Board of Education may provide, through an
agreement with vendors having the technical capacity and expertise to provide computerized tests and
assessments, and test construction, analysis, and security, for (i) web-based computerized tests and
assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of
student progress during and after remediation and (ii) the development of a remediation item bank
directly related to the Standards of Learning.

F. To assess the educational progress of students as individuals and as groups, each local school
board shall require the use of Standards of Learning assessments, alternative assessments, and other
relevant data, such as industry certification and state licensure examinations, to evaluate student
progress and to determine educational performance. Each local school shall require the administration of
appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests
and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board of Education, the results from the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, if administered, industry certification examinations, and the Standards of Learning Assessments to the public.

The Board of Education shall not require administration of the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the requirements for home instruction pursuant to § 22.1-254.1.

The Board shall include requirements for the reporting of the Standards of Learning assessment scores and averages for each year, regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia assessment program as appropriate and shall be reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department of Education's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

G. Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this requirement shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

H. Any school board may request the Board of Education for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for certain other schools by the Standards of Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code.
Waivers of regulatory requirements may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The Board of Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The school board shall provide in its waiver request a description of how the releases from state regulations are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The Department of Education shall provide (a) guidance to any local school division that requests releases from state regulations and (b) information about opportunities to form partnerships with other agencies or entities to any local school division in which the school or schools granted releases from state regulations have demonstrated improvement in the quality of instruction and the achievement of students.

The Board of Education may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.