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HOUSE BILL NO. 4

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws on February 6, 2020)

(Patrons Prior to Substitute—Delegates Knight, Bourne [HB 1343], Carr [HB 1661], Kilgore [HB 374], Lindsey [HB 560], and Scott [HB 428])

A BILL to amend and reenact §§ 2.2-401.01, 2.2-3711, 15.2-2825, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4002, 58.1-4004, 58.1-4006, and 59.1-364 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Title 58.1 a chapter numbered 41, containing articles numbered 1 through 10, consisting of sections numbered 58.1-4100 through 58.1-4130, relating to regulation of casino gaming by Virginia Lottery Board; Regional Improvement Commission; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-401.01, 2.2-3711, 15.2-2825, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4002, 58.1-4004, 58.1-4006, and 59.1-364 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Title 58.1 a chapter numbered 41, containing articles numbered 1 through 10, consisting of sections numbered 58.1-4100 through 58.1-4130, as follows:

§ 2.2-401.01. Liaison to Virginia Indian tribes; Virginia Indigenous People's Trust Fund.

A. The Secretary of the Commonwealth shall:

- 1. Serve as the Governor's liaison to the Virginia Indian tribes; and
2. Report annually on the status of Indian tribes in Virginia.

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

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

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

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

b. Establish a process for accepting and reviewing all applications for full tribal recognition;

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

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

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

f. Perform such other duties, functions, and activities as may be necessary to facilitate and implement

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60 the objectives of this subsection.

61 *C. There is hereby created in the state treasury a special nonreverting fund to be known as the*
62 *Virginia Indigenous People's Trust Fund, referred to in this section as "the Fund." The Fund shall be*
63 *established on the books of the Comptroller. All funds appropriated for such purpose, any tax revenue*
64 *accruing to the fund pursuant to § 58.1-4125, and any gifts, donations, grants, bequests, and other funds*
65 *received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on*
66 *moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,*
67 *including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall*
68 *remain in the Fund. After payment of the costs of administration of the Fund, moneys in the Fund shall*
69 *be used to make disbursements on a quarterly basis in equal amounts to each of the six Virginia Indian*
70 *tribes federally recognized under P.L. 115-121 of 2018. Expenditures and disbursements from the Fund*
71 *shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed*
72 *by the Secretary of the Commonwealth.*

73 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

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

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

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

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

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

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

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

114 9. Discussion or consideration by governing boards of public institutions of higher education of
115 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
116 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
117 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
118 accepted by a public institution of higher education in the Commonwealth shall be subject to public
119 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
120 (i) "foreign government" means any government other than the United States government or the
121 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity

122 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
123 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
124 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
125 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
126 citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

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

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

166 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
167 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
168 trustees of a trust established by one or more local public bodies to invest funds for postemployment
169 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
170 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
171 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
172 holding or disposition of a security or other ownership interest in an entity, where such security or
173 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
174 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
175 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
176 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
177 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
178 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
179 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
180 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
181 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
182 of information relating to the identity of any investment held, the amount invested or the present value

183 of such investment.

184 21. Those portions of meetings in which individual child death cases are discussed by the State Child
185 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
186 individual child death cases are discussed by a regional or local child fatality review team established
187 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
188 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
189 which individual adult death cases are discussed by the state Adult Fatality Review Team established
190 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
191 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
192 meetings in which individual death cases are discussed by overdose fatality review teams established
193 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are
194 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

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

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

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

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

223 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
224 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
225 § 56-484.12, related to the provision of wireless E-911 service.

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

232 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
233 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
234 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
235 responsible public entity concerning such records.

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

240 30. Discussion or consideration of grant or loan application information subject to the exclusion in
241 subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation
242 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory
243 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

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

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

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

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

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

257 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
258 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative
259 files subject to the exclusion in subdivision B 1 of § 2.2-3706.

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

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

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

274 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
275 § 2.2-3705.6 related to economic development.

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

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

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

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

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

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

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

303 47. Discussion or consideration of grant or loan application records subject to the exclusion in
304 subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the
305 Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title

306 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of
307 § 23.1-3133 or by the Virginia Research Investment Committee.

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

311 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
312 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
313 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
314 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
315 §§ 15.2-1627.5 and 63.2-1605.

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

320 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
321 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
322 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
323 § 60.2-114.

324 52. *Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to*
325 *§ 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion,*
326 *consideration, or review of matters related to investigations exempted from disclosure under subdivision*
327 *1 of § 2.2-3705.3.*

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

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

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

338 E. This section shall not be construed to (i) require the disclosure of any contract between the
339 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
340 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
341 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
342 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
343 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
344 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
345 of such bonds.

346 **§ 11-16.1. Exemption from the chapter.**

347 *This chapter shall not apply to any bet, wager, or casino gaming permitted by Chapter 41*
348 *(§ 58.1-4100 et seq.) of Title 58.1 or to any contract, conduct, or transaction arising from conduct*
349 *lawful thereunder.*

350 **§ 15.2-2825. Smoking in restaurants prohibited; exceptions; posting of signs; penalty for**
351 **violation.**

352 A. Effective December 1, 2009, smoking shall be prohibited and no person shall smoke in any
353 restaurant in the Commonwealth or in any restroom within such restaurant, except that smoking may be
354 permitted in:

355 1. Any place or operation that prepares or stores food for distribution to persons of the same
356 business operation or of a related business operation for service to the public. Examples of such places
357 or operations include the preparation or storage of food for catering services, pushcart operations, hotdog
358 stands, and other mobile points of service;

359 2. Any outdoor area of a restaurant, with or without roof covering, at such times when such outdoor
360 area is not enclosed in whole or in part by any screened walls, roll-up doors, windows or other seasonal
361 or temporary enclosures;

362 3. Any restaurants located on the premises of any manufacturer of tobacco products;

363 4. Any portion of a restaurant that is used exclusively for private functions, provided such functions
364 are limited to those portions of the restaurant that meet the requirements of subdivision 5;

365 5. Any portion of a restaurant that is constructed in such a manner that the area where smoking may
366 be permitted is (i) structurally separated from the portion of the restaurant in which smoking is
367 prohibited and to which ingress and egress is through a door and (ii) separately vented to prevent the

368 recirculation of air from such area to the area of the restaurant where smoking is prohibited. At least
369 one public entrance to the restaurant shall be into an area of the restaurant where smoking is prohibited.
370 For the purposes of the preceding sentence, nothing shall be construed to require the creation of an
371 additional public entrance in cases where the only public entrance to a restaurant in existence as of
372 December 1, 2009, is through an outdoor area described in subdivision 2; ~~and~~

373 6. Any private club; *and*

374 7. *Any portion of a facility licensed to conduct casino gaming pursuant to Chapter 41 (§ 58.1-4100*
375 *et seq.) of Title 58.1 designated pursuant to the provisions of and that meets the requirements of*
376 *§ 15.2-2827. Any restaurant within a facility licensed to conduct casino gaming shall comply with the*
377 *provisions of this section.*

378 B. For the purposes of this section:

379 "Proprietor" means the owner, lessee or other person who ultimately controls the activities within the
380 restaurant. The term "proprietor" includes corporations, associations, or partnerships as well as
381 individuals.

382 "Structurally separated" means a stud wall covered with drywall or other building material or other
383 like barrier, which, when completed, extends from the floor to the ceiling, resulting in a physically
384 separated room. Such wall or barrier may include portions that are glass or other gas-impervious
385 building material.

386 C. No individual who is wait staff or bus staff in a restaurant shall be required by the proprietor to
387 work in any area of the restaurant where smoking may be permitted without the consent of such
388 individual. Nothing in this subsection shall be interpreted to create a cause of action against such
389 proprietor.

390 D. The proprietor of any restaurant shall:

391 1. Post signs stating "No Smoking" or containing the international "No Smoking" symbol, consisting
392 of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it, clearly
393 and conspicuously in every restaurant where smoking is prohibited in accordance with this section; and

394 2. Remove all ashtrays and other smoking paraphernalia from any area in the restaurant where
395 smoking is prohibited in accordance with this section.

396 E. Any proprietor of a restaurant who fails to comply with the requirements of this section shall be
397 subject to the civil penalty of not more than \$25.

398 F. No person shall smoke in any area of a restaurant in which smoking is prohibited as provided in
399 this section. Any person who continues to smoke in such area after having been asked to refrain from
400 smoking shall be subject to a civil penalty of not more than \$25.

401 G. It shall be an affirmative defense to a complaint brought against a proprietor for a violation of
402 this section that the proprietor or an employee of such proprietor:

403 1. Posted a "No Smoking" sign as required;

404 2. Removed all ashtrays and other smoking paraphernalia from all areas where smoking is prohibited;

405 3. Refused to seat or serve any individual who was smoking in a prohibited area; and

406 4. If the individual continued to smoke after an initial warning, asked the individual to leave the
407 establishment.

408 H. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund
409 established under § 32.1-366.

410 I. Any local health department or its designee shall, while inspecting a restaurant as otherwise
411 required by law, inspect for compliance with this section.

412 **§ 18.2-334.5. Exemptions to article; certain gaming operations.**

413 *Nothing in this article shall be construed to make it illegal to participate in any casino gaming*
414 *operation conducted in accordance with Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.*

415 **§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record**
416 **information.**

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

419 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
420 purposes of the administration of criminal justice and the screening of an employment application or
421 review of employment by a criminal justice agency with respect to its own employees or applicants, and
422 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
423 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
424 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
425 purposes of this subdivision, criminal history record information includes information sent to the Central
426 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
427 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
428 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the

429 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
430 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

457 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
458 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
459 position of employment whenever, in the interest of public welfare or safety and as authorized in the
460 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
461 with a conviction record would be compatible with the nature of the employment under consideration;

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

469 9. To the extent permitted by federal law or regulation, public service companies as defined in
470 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
471 personal contact with the public or when past criminal conduct of an applicant would be incompatible
472 with the nature of the employment under consideration;

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

475 11. A person requesting a copy of his own criminal history record information as defined in
476 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
477 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
478 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
479 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
480 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
481 Solvers or Crime Line program as defined in § 15.2-1713.1;

482 12. Administrators and board presidents of and applicants for licensure or registration as a child
483 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
484 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
485 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
486 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
487 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
488 that the data shall not be further disseminated by the facility or agency to any party other than the data
489 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
490 may be required to comply with an express requirement of law for such further dissemination;

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

494 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
495 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
496 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
497 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

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

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

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

510 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
511 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
512 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

513 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
514 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
515 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

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

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

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

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

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

535 26. Executive directors of community services boards or the personnel director serving the
536 community services board for the purpose of determining an individual's fitness for employment,
537 approval as a sponsored residential service provider, or permission to enter into a shared living
538 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
539 §§ 37.2-506 and 37.2-607;

540 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
541 determining an individual's fitness for employment, approval as a sponsored residential service provider,
542 or permission to enter into a shared living arrangement with a person receiving medical assistance
543 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

547 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
548 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
549 purpose of determining if any applicant who accepts employment in any direct care position or requests
550 approval as a sponsored residential service provider or permission to enter into a shared living
551 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted

552 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
553 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
554 37.2-607;

555 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
556 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
557 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

558 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
559 for the purpose of determining if any person being considered for election to any judgeship has been
560 convicted of a crime;

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

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

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

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

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

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

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

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

593 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
594 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
595 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
596 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

600 43. The Department of Social Services and directors of local departments of social services for the
601 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
602 or a local department of social services for the provision of child care services for which child care
603 subsidy payments may be provided;

604 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
605 a juvenile's household when completing a predispositional or postdispositional report required by
606 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

607 45. Other entities as otherwise provided by law.

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

612 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
613 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the

614 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
615 copy of conviction data covering the person named in the request to the person making the request;
616 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
617 making of such request. A person receiving a copy of his own conviction data may utilize or further
618 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
619 subject, the person making the request shall be furnished at his cost a certification to that effect.

620 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
621 section shall be limited to the purposes for which it was given and may not be disseminated further.

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

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

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

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

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

643 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
644 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
645 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
646 the request to the employer or prospective employer making the request, provided that the person on
647 whom the data is being obtained has consented in writing to the making of such request and has
648 presented a photo-identification to the employer or prospective employer. In the event no conviction data
649 is maintained on the person named in the request, the requesting employer or prospective employer shall
650 be furnished at his cost a certification to that effect. The criminal history record search shall be
651 conducted on forms provided by the Exchange.

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

654 **§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.**

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

657 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
658 purposes of the administration of criminal justice and the screening of an employment application or
659 review of employment by a criminal justice agency with respect to its own employees or applicants, and
660 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
661 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
662 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
663 purposes of this subdivision, criminal history record information includes information sent to the Central
664 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
665 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
666 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
667 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
668 Commonwealth for the purposes of the administration of criminal justice;

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

675 pending;

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

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

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

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

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

695 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
696 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
697 position of employment whenever, in the interest of public welfare or safety and as authorized in the
698 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
699 with a conviction record would be compatible with the nature of the employment under consideration;

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

707 9. To the extent permitted by federal law or regulation, public service companies as defined in
708 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
709 personal contact with the public or when past criminal conduct of an applicant would be incompatible
710 with the nature of the employment under consideration;

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

713 11. A person requesting a copy of his own criminal history record information as defined in
714 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
715 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
716 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
717 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
718 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
719 Solvers or Crime Line program as defined in § 15.2-1713.1;

720 12. Administrators and board presidents of and applicants for licensure or registration as a child
721 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
722 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
723 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
724 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
725 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
726 that the data shall not be further disseminated by the facility or agency to any party other than the data
727 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
728 may be required to comply with an express requirement of law for such further dissemination;

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

732 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
733 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
734 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
735 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

736 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations

737 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
738 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to
739 the limitations set out in subsection E;

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

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

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

748 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
749 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
750 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

751 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
752 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
753 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

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

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

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

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

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

773 26. Executive directors of community services boards or the personnel director serving the
774 community services board for the purpose of determining an individual's fitness for employment,
775 approval as a sponsored residential service provider, or permission to enter into a shared living
776 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
777 §§ 37.2-506 and 37.2-607;

778 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
779 determining an individual's fitness for employment, approval as a sponsored residential service provider,
780 or permission to enter into a shared living arrangement with a person receiving medical assistance
781 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

785 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
786 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
787 purpose of determining if any applicant who accepts employment in any direct care position or requests
788 approval as a sponsored residential service provider or permission to enter into a shared living
789 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
790 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
791 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
792 37.2-607;

793 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
794 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
795 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

796 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
797 for the purpose of determining if any person being considered for election to any judgeship has been

798 convicted of a crime;

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

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

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

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

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

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

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

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

831 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
832 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
833 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
834 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

838 43. The Department of Social Services and directors of local departments of social services for the
839 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
840 or a local department of social services for the provision of child care services for which child care
841 subsidy payments may be provided;

842 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
843 a juvenile's household when completing a predispositional or postdispositional report required by
844 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

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

847 46. Other entities as otherwise provided by law.

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

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

860 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
861 section shall be limited to the purposes for which it was given and may not be disseminated further.

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

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

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

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

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

883 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
884 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
885 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
886 the request to the employer or prospective employer making the request, provided that the person on
887 whom the data is being obtained has consented in writing to the making of such request and has
888 presented a photo-identification to the employer or prospective employer. In the event no conviction data
889 is maintained on the person named in the request, the requesting employer or prospective employer shall
890 be furnished at his cost a certification to that effect. The criminal history record search shall be
891 conducted on forms provided by the Exchange.

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

894 **§ 37.2-304. Duties of Commissioner.**

895 The Commissioner shall be the chief executive officer of the Department and shall have the
896 following duties and powers:

- 897 1. To supervise and manage the Department and its state facilities.
- 898 2. To employ the personnel required to carry out the purposes of this title.
- 899 3. To make and enter into all contracts and agreements necessary or incidental to the performance of
900 the Department's duties and the execution of its powers under this title, including contracts with the
901 United States, other states, and agencies and governmental subdivisions of the Commonwealth,
902 consistent with policies and regulations of the Board and applicable federal and state statutes and
903 regulations.
- 904 4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the
905 United States government, agencies and instrumentalities thereof, and any other source, subject to the
906 approval of the Governor. To these ends, the Commissioner shall have the power to comply with
907 conditions and execute agreements that may be necessary, convenient, or desirable, consistent with
908 policies and regulations of the Board.
- 909 5. To accept, execute, and administer any trust in which the Department may have an interest, under
910 the terms of the instruments creating the trust, subject to the approval of the Governor.
- 911 6. To transfer between state hospitals and training centers school-age individuals who have been
912 identified as appropriate to be placed in public school programs and to negotiate with other school
913 divisions for placements in order to ameliorate the impact on those school divisions located in a
914 jurisdiction in which a state hospital or training center is located.
- 915 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,
916 established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical
917 incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities
918 and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to
919 § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the
920 Department within 15 working days of the critical incident, serious injury, or death.

921 8. To work with the appropriate state and federal entities to ensure that any individual who has
 922 received services in a state facility for more than one year has possession of or receives prior to
 923 discharge any of the following documents, when they are needed to obtain the services contained in his
 924 discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days
 925 from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a
 926 social security card from the Social Security Administration. State facility directors, as part of their
 927 responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

928 9. To work with the Department of Veterans Services and the Department for Aging and
 929 Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia
 930 veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces
 931 Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

932 10. To establish and maintain a pharmaceutical and therapeutics committee composed of
 933 representatives of the Department of Medical Assistance Services, state facilities operated by the
 934 Department, community services boards, at least one health insurance plan, and at least one individual
 935 receiving services to develop a drug formulary for use at all community services boards, state facilities
 936 operated by the Department, and providers licensed by the Department.

937 11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to
 938 § 37.2-312.2.

939 12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and
 940 the Chairmen of the House *Committee on Appropriations* and Senate ~~Finance Committees~~ *Committee on*
 941 *Finance and Appropriations* that provides information on the operation of Virginia's publicly funded
 942 behavioral health and developmental services system. The report shall include a brief narrative and data
 943 on the number of individuals receiving state facility services or community services board services,
 944 including purchased inpatient psychiatric services; the types and amounts of services received by these
 945 individuals; and state facility and community services board service capacities, staffing, revenues, and
 946 expenditures. The annual report shall describe major new initiatives implemented during the past year
 947 and shall provide information on the accomplishment of systemic outcome and performance measures
 948 during the year.

949 13. *To establish a comprehensive program for the prevention and treatment of problem gambling in*
 950 *the Commonwealth and administer the Problem Gambling Treatment and Support Fund established*
 951 *pursuant to § 37.2-314.1.*

952 Unless specifically authorized by the Governor to accept or undertake activities for compensation, the
 953 Commissioner shall devote his entire time to his duties.

954 **§ 37.2-314.1. Problem gambling; ongoing evaluation of problem gambling programs; Problem**
 955 **Gambling Treatment and Support Fund.**

956 A. As used in this section:

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

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

964 B. There is hereby created in the state treasury a special nonreverting fund to be known as the
 965 *Problem Gambling Treatment and Support Fund*, referred to in this section as "the Fund." The Fund
 966 shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund
 967 pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 shall be paid into the state treasury and
 968 credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited
 969 to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall
 970 not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for
 971 the purposes of (i) providing counseling and other support services for compulsive and problem
 972 gamblers, (ii) developing and implementing compulsive and problem gambling treatment and prevention
 973 programs, and (iii) providing grants to support organizations that provide assistance to compulsive and
 974 problem gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer
 975 on warrants issued by the Comptroller upon written request signed by the Commissioner.

976 **§ 58.1-4002. Definitions.**

977 ~~For the purposes of~~ As used in this chapter, unless the context requires a different meaning:

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

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

983 "Department" means the independent agency responsible for the administration of the Virginia
984 Lottery created in this chapter.

985 "Director" means the Director of the Virginia Lottery.

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

988 "Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery
989 tickets on behalf of individuals located within or outside the Commonwealth and delivering or
990 transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit
991 delivery service.

992 **§ 58.1-4004. Membership of Board; appointment; terms; vacancies; removal; expenses.**

993 A. The Board shall consist of five members, all of whom shall be citizens and residents of this
994 Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor,
995 subject to confirmation by a majority of the members elected to each house of the General Assembly if
996 in session when the appointment is made, and if not in session, then at its next succeeding session. Prior
997 to the appointment of any Board members, the Governor shall consider the political affiliation and the
998 geographic residence of the Board members. The members shall be appointed for terms of five years.
999 The members shall annually elect one member as chairman of the Board.

1000 B. Any vacancy on the Board occurring for any reason other than the expiration of a term shall be
1001 filled for the unexpired term in the same manner as the original term.

1002 C. The members of the Board shall receive such compensation as provided in § 2.2-2813, shall be
1003 subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the
1004 performance of their official duties.

1005 D. Before entering upon the discharge of their duties, the members of the Board shall take an oath
1006 that they will faithfully and honestly execute the duties of the office during their continuance therein and
1007 they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful
1008 discharge of their duties. The premium on such bond shall be paid out of the Virginia Lottery Fund.

1009 *E. No member of the Board shall:*

1010 *1. Have any direct or indirect financial, ownership, or management interest in any gaming activities,*
1011 *including any casino gaming operation, charitable gaming, pari-mutuel wagering, or lottery.*

1012 *2. Receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities,*
1013 *including any casino gaming operation, charitable gaming, pari-mutuel wagering, or lottery.*

1014 *3. Have an interest in any contract for the manufacture or sale of gaming devices, the conduct of*
1015 *any gaming activity, or the provision of independent consulting services in connection with any gaming*
1016 *establishment or gaming activity.*

1017 **§ 58.1-4006. Powers of the Director.**

1018 A. The Director shall supervise and administer ~~the~~:

1019 *1. The operation of the lottery in accordance with the provisions of this chapter and with the rules*
1020 *and regulations promulgated hereunder; and*

1021 *2. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.).*

1022 B. The Director shall also:

1023 *1. Employ such deputy directors, professional, technical and clerical assistants, and other employees*
1024 *as may be required to carry out the functions and duties of the Department.*

1025 *2. Act as secretary and executive officer of the Board.*

1026 *3. Require bond or other surety satisfactory to the Director from licensed agents as provided in*
1027 *subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery*
1028 *funds, in such amount as provided in the rules and regulations of the Board. The Director may also*
1029 *require bond from other employees as he deems necessary.*

1030 *4. Confer regularly, but not less than four times each year, with the Board on the operation and*
1031 *administration of the lottery and the regulation of casino gaming; make available for inspection by the*
1032 *Board, upon request, all books, records, files, and other information and documents of the Department;*
1033 *and advise the Board and recommend such matters as he deems necessary and advisable to improve the*
1034 *operation and administration of the lottery and the regulation of casino gaming.*

1035 *5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and*
1036 *regulations adopted hereunder.*

1037 *6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41*
1038 *(§ 58.1-4100 et seq.).*

1039 *7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a*
1040 *license or permit, whose conduct or reputation is such that his presence may, in the opinion of the*
1041 *Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly*
1042 *gaming operations.*

1043 *8. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter*

1044 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for
 1045 appropriate action.

1046 9. Inspect and investigate, and have free access to, the offices, facilities, or other places of business
 1047 of any licensee or permit holder and may compel the production of any of the books, documents,
 1048 records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with
 1049 Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.

1050 10. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to
 1051 file with the Department such information as shall appear to the Director to be necessary for the
 1052 performance of the Department's functions, including financial statements and information relative to
 1053 principals and all others with any pecuniary interest in such person.

1054 11. Impose a fine or penalty not to exceed \$1 million upon any person determined, in proceedings
 1055 commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100
 1056 et seq.) or regulations promulgated by the Board.

1057 12. Enter into arrangements with any foreign or domestic governmental agency for the purposes of
 1058 exchanging information or performing any other act to better ensure the proper conduct of casino
 1059 gaming operations or the efficient conduct of the Director's duties.

1060 13. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the
 1061 lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the
 1062 Director shall not be assigned by the holder thereof except by specific approval of the Director.

1063 ~~7.~~ 14. Certify monthly to the State Comptroller and the Board a full and complete statement of
 1064 lottery revenues, prize disbursements and other expenses for the preceding month.

1065 ~~8.~~ 15. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate
 1066 Committee on Finance ~~Committee~~ and Appropriations, House Committee on Finance ~~Committee~~, and
 1067 House Committee on Appropriations ~~Committee~~ the total lottery revenues, prize disbursements, and other
 1068 expenses for the preceding month, and make an annual report, which shall include a full and complete
 1069 statement of lottery revenues, prize disbursements, and other expenses, as well as a separate financial
 1070 statement of the expenses incurred in the regulation of casino gaming operations as defined in
 1071 § 58.1-4100, to the Governor and the General Assembly. Such annual report shall also include such
 1072 recommendations for changes in this chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and
 1073 Board deem necessary or desirable.

1074 ~~9.~~ 16. Report immediately to the Governor and the General Assembly any matters ~~which~~ that require
 1075 immediate changes in the laws of ~~this~~ the Commonwealth in order to prevent abuses and evasions of
 1076 this chapter and Chapter 41 (§ 58.1-4100 et seq.) or the rules and regulations adopted hereunder or to
 1077 rectify undesirable conditions in connection with the administration or operation of the lottery.

1078 ~~10.~~ 17. Notify prize winners and appropriate state and federal agencies of the payment of prizes in
 1079 excess of \$600 in the manner required by the lottery rules and regulations.

1080 ~~11.~~ 18. Provide for the withholding of the applicable amount of state and federal income tax of
 1081 persons claiming a prize for a winning ticket in excess of \$5,001.

1082 C. The Director and the director of security or investigators appointed by the Director shall be vested
 1083 with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department
 1084 and to investigate violations of the statutes and regulations that the Director is required to enforce.

1085 D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales
 1086 agents ~~which~~ that he determines will be cost effective and support increased sales of lottery products.

1087 CHAPTER 41.

1088 CASINO GAMING.

1089 Article 1.

1090 General Provisions.

1091 § 58.1-4100. Definitions.

1092 As used in this chapter, unless the context requires a different meaning:

1093 "Adjusted gross receipts" means the gross receipts from casino gaming less winnings paid to
 1094 winners.

1095 "Board" means the Virginia Lottery Board established in the Virginia Lottery Law (§ 58.1-4000 et
 1096 seq.).

1097 "Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot
 1098 machines, sports betting, roulette wheels, Klondike tables, punchboards, faro layouts, keno layouts,
 1099 numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the
 1100 Board as a wagering game or device under this chapter.

1101 "Casino gaming establishment" means the premises upon which lawful casino gaming is authorized
 1102 and licensed as provided in this chapter. "Casino gaming establishment" does not include a riverboat or
 1103 similar vessel.

1104 "Casino gaming operator" means any person issued a license by the Board to operate a casino
 1105 gaming establishment.

1106 "Cheat" means to alter the selection criteria that determine the result of a game or the amount or
 1107 frequency of payment in a game for the purpose of obtaining an advantage for one or more participants
 1108 in a game over other participants in a game.

1109 "College sports" means an athletic event in which at least one participant is a team from a public or
 1110 private institute of higher education.

1111 "Department" means the independent agency responsible for the administration of the Virginia
 1112 Lottery created in the Virginia Lottery Law (§ 58.1-4000 et seq.).

1113 "Director" means the Director of the Virginia Lottery.

1114 "Eligible host city" means any city described in § 58.1-4107 in which a casino gaming establishment
 1115 is authorized to be located.

1116 "Entity" means a person that is not a natural person.

1117 "Gaming operation" means the conduct of authorized casino gaming within a casino gaming
 1118 establishment.

1119 "Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, or
 1120 electronic cards by casino gaming patrons.

1121 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household as
 1122 an officer or employee and who is a dependent of the officer or employee or of whom the officer or
 1123 employee is a dependent.

1124 "Individual" means a natural person.

1125 "Licensee" or "license holder" means any person holding an operator's license under § 58.1-4111.

1126 "Permit holder" means any person holding a supplier or service permit pursuant to this chapter.

1127 "Person" means an individual, partnership, joint venture, association, limited liability company, stock
 1128 corporation, or nonstock corporation and includes any person that directly or indirectly controls or is
 1129 under common control with another person.

1130 "Preferred casino gaming operator" means the proposed casino gaming establishment and operator
 1131 thereof submitted by an eligible host city to the Board as an applicant for licensure.

1132 "Principal" means any individual who solely or together with his immediate family members (i) owns
 1133 or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a
 1134 licensee or (ii) has the power to vote or cause the vote of five percent or more of the voting securities
 1135 or other ownership interests of such entity, and any person who manages a gaming operation on behalf
 1136 of a licensee.

1137 "Professional sports" means an athletic event involving at least two competing individuals who
 1138 receive compensation, in excess of their expenses, for participating in such event.

1139 "Security" has the same meaning as provided in § 13.1-501. If the Board finds that any obligation,
 1140 stock, or other equity interest creates control of or voice in the management operations of an entity in
 1141 the manner of a security, then such interest shall be considered a security.

1142 "Sports betting" means placing wagers on professional sports and college sports at the casino
 1143 gaming establishment. "Sports betting" does not include participating in charitable gaming authorized by
 1144 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, wagering on horse racing authorized by
 1145 Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, or participating in fantasy contests authorized by Chapter
 1146 51 (§ 59.1-556 et seq.) of Title 59.1.

1147 "Supplier" means any person that sells or leases, or contracts to sell or lease, any casino gaming
 1148 equipment, devices, or supplies, or provides any management services, to a licensee.

1149 "Voluntary exclusion program" means a program established by the Board that allows individuals to
 1150 voluntarily exclude themselves from the gaming areas of facilities under the jurisdiction of the Board by
 1151 placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

1152 "Youth sports" means an athletic event (i) involving a participant under age 18 or (ii) in which at
 1153 least one participant is a team from a public or private elementary, middle, or secondary school,
 1154 regardless of where such school is located.

1155 **§ 58.1-4101. Regulation and control of casino gaming; limitation.**

1156 A. Casino gaming shall be licensed and permitted as herein provided to benefit the people of the
 1157 Commonwealth. The Board is vested with control of all casino gaming in the Commonwealth, with
 1158 authority to prescribe regulations and conditions under this chapter. The purposes of this chapter are to
 1159 assist economic development, promote tourism, and provide for the implementation of casino gaming
 1160 operations of the highest quality, honesty, and integrity and free of any corrupt, incompetent, dishonest,
 1161 or unprincipled practices.

1162 B. The conduct of casino gaming shall be limited to the qualified locations established in
 1163 § 58.1-4107. The Board shall be limited to the issuance of a single operator's license for each such
 1164 qualified location.

1165 C. The conduct of any casino gaming and entrance to such establishment is a privilege that may be
 1166 granted or denied by the Board or its duly authorized representatives in its discretion in order to

1167 effectuate the purposes set forth in this chapter. Any proposed site for a casino gaming establishment
1168 shall be privately owned property subject to the local land use and property taxation authority of the
1169 eligible host city in which the casino gaming establishment is located.

1170 **§ 58.1-4102. Powers and duties of the Board; regulations.**

1171 The Board shall have the power and duty to:

1172 1. Issue permits and licenses under this chapter and supervise all gaming operations licensed under
1173 the provisions of this chapter, including all persons conducting or participating in any gaming
1174 operation. The Board shall employ such persons to be present during gaming operations as are
1175 necessary to ensure that such gaming operations are conducted with order and the highest degree of
1176 integrity.

1177 2. Adopt regulations regarding the conditions under which casino gaming shall be conducted in the
1178 Commonwealth and all such other regulations it deems necessary and appropriate to further the
1179 purposes of this chapter.

1180 3. Issue an operator's license only to a person who meets the criteria of § 58.1-4107.

1181 4. Issue subpoenas for the attendance of witnesses before the Board, administer oaths, and compel
1182 production of records or other documents and testimony of such witnesses whenever in the judgment of
1183 the Board it is necessary to do so for the effectual discharge of its duties.

1184 5. Order such audits as it deems necessary and desirable.

1185 6. Provide for the withholding of the applicable amount of state and federal income tax of persons
1186 claiming a prize or payoff for winning a game and establish the thresholds for such withholdings.

1187 **§ 58.1-4103. Voluntary exclusion program.**

1188 A. The Board shall adopt regulations to establish and implement a voluntary exclusion program in
1189 the Commonwealth.

1190 B. The regulations shall include the following provisions:

1191 1. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion
1192 program agrees to be excluded from entering a casino gaming establishment.

1193 2. The name of an individual participating in the program shall be included on a list of individuals
1194 excluded from all casino gaming establishments.

1195 3. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion
1196 program may not petition the Board for readmittance to any casino gaming establishment.

1197 4. The list of participants in the voluntary exclusion program and the personal information of the
1198 participants shall be confidential with dissemination by the Board limited to the owner or operator of a
1199 casino gaming establishment for purposes of enforcement and to other entities, upon request by the
1200 participant and agreement by the Board.

1201 5. The operator of a casino gaming establishment shall make all reasonable attempts as determined
1202 by the Board to cease all direct marketing efforts to an individual participating in the program. An
1203 individual's participation in the voluntary exclusion program shall not preclude an operator from
1204 seeking the payment of a debt accrued by such individual prior to entering the program.

1205 **§ 58.1-4104. Fingerprints and background investigations.**

1206 The Board shall require a background investigation, including a criminal history records check and
1207 fingerprinting, of the following individuals by a representative of a law-enforcement agency of the
1208 Commonwealth or federal government: (i) every individual applying for a license or permit pursuant to
1209 this chapter; (ii) every individual who is an officer, director, or principal of a licensee or applicant for
1210 a license and every employee of the licensee who conducts gaming operations; (iii) all security
1211 personnel of any licensee; (iv) all permit holders and officers, directors, principals, and employees of
1212 permit holders whose duties relate to gaming operations in Virginia; and (v) any other individual
1213 determined by the Department as an active participant in the casino gaming activities of any licensee or
1214 permit holder or applicant for a license or permit. Each such individual shall submit his fingerprints
1215 and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the
1216 Federal Bureau of Investigation for a national criminal records search and to the Department of State
1217 Police for a Virginia criminal history records search.

1218 **§ 58.1-4105. Hearing and appeal.**

1219 Any person aggrieved by a refusal of the Department to issue any license or permit, the suspension
1220 or revocation of a license or permit, the imposition of a fine, or any other action of the Department may
1221 seek review of such action in accordance with Department regulations and Article 3 (§ 2.2-4018 et seq.)
1222 of the Administrative Process Act (§ 2.2-4000 et seq.) in the Circuit Court of the City of Richmond.
1223 Further appeals shall also be in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative
1224 Process Act.

1225 **§ 58.1-4106. Injunction.**

1226 The Department may apply to the appropriate circuit court for an injunction against any person who
1227 has violated or may violate any provision of this chapter or any regulation or final decision of the
1228 Department. The order granting or refusing such injunction shall be subject to appeal as in other cases

1229 in equity.

1230 Article 2.

1231 Eligible Host City; Certification of Preferred Casino Gaming Operator.

1232 § 58.1-4107. Eligible host city; certification of preferred casino gaming operator.

1233 A. The conduct of casino gaming shall be limited to the following eligible host cities:

1234 1. Any city (i) in which at least 40 percent of the assessed value of all real estate in such city is
1235 exempt from local property taxation, according to the Virginia Department of Taxation Annual Report
1236 for Fiscal Year 2018, and (ii) that experienced a population decrease of at least seven percent from
1237 1990 to 2016, according to data provided by the U.S. Census Bureau;

1238 2. Any city that had (i) an annual unemployment rate of at least five percent in 2018, according to
1239 data provided by the U.S. Bureau of Labor Statistics; (ii) an annual poverty rate of at least 20 percent
1240 in 2017, according to data provided by the U.S. Census Bureau; and (iii) a population decrease of at
1241 least 20 percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;

1242 3. Any city that (i) had an annual unemployment rate of at least 3.6 percent in 2018, according to
1243 data provided by the U.S. Bureau of Labor Statistics; (ii) had an annual poverty rate of at least 20
1244 percent in 2017, according to data provided by the U.S. Census Bureau; (iii) experienced a population
1245 decrease of at least four percent from 1990 to 2016, according to data provided by the U.S. Census
1246 Bureau; and (iv) is located adjacent to a state that has adopted a Border Region Retail Tourism
1247 Development District Act; and

1248 4. Any city (i) with a population greater than 200,000 according to the 2018 population estimates
1249 from the Weldon Cooper Center for Public Service of the University of Virginia; (ii) in which at least
1250 24 percent of the assessed value of all real estate in such city is exempt from local property taxation,
1251 according to the Virginia Department of Taxation Annual Report for Fiscal Year 2018; and (iii) that
1252 experienced a population decrease of at least five percent from 1990 to 2016, according to data
1253 provided by the U.S. Census Bureau.

1254 5. Any city (i) with a population greater than 200,000 according to the 2018 population estimates
1255 from the Weldon Cooper Center for Public Service of the University of Virginia; (ii) in which at least
1256 24 percent of the assessed value of all real estate in such city is exempt from local property taxation,
1257 according to the Virginia Department of Taxation Annual Report for Fiscal Year 2018; and (iii) that
1258 had a poverty rate of at least 24 percent in 2017, according to data provided by the U.S. Census
1259 Bureau.

1260 B. An eligible host city shall certify a preferred casino gaming operator and, upon request from the
1261 Department pursuant to § 58.1-4109, submit to the Department the name of such preferred casino
1262 gaming operator.

1263 C. In selecting a preferred casino gaming operator, an eligible host city shall have considered
1264 factors such as:

1265 1. The potential benefit and prospective revenues of the proposed casino gaming establishment.

1266 2. The total value of the proposed casino gaming establishment.

1267 3. The proposed capital investment and the financial health of the proposer and any proposed
1268 development partners.

1269 4. The experience of the proposer and any development partners in the operation of a casino gaming
1270 establishment.

1271 5. Security plans for the proposed casino gaming establishment.

1272 6. The economic development value of the proposed casino gaming establishment and the potential
1273 for community reinvestment and redevelopment in an area in need of such.

1274 7. Availability of city-owned assets and privately owned assets, such as real property, including
1275 where there is only one location practicably available or land under a development agreement between
1276 a potential operator and the city, incorporated in the proposal.

1277 8. The best financial interest of the city.

1278 9. The percent of ownership in the proposer by a minority-owned business as defined in § 2.2-1604.

1279 D. An eligible host city described in subdivision A 4 shall provide substantial and preferred
1280 consideration to a proposer who is a Virginia Indian tribe recognized in House Joint Resolution No. 54
1281 (1983) and acknowledged by the United States Assistant Secretary-Indian Affairs as an Indian tribe
1282 within the meaning of federal law that has the authority to conduct gaming activities as a matter of
1283 claimed inherent authority or under the authority of the Indian Gaming Regulatory Act.

1284 E. An eligible host city described in subdivision A 5 shall provide substantial and preferred
1285 consideration to a proposer who is (i) a significant infrastructure limited licensee as defined in
1286 § 59.1-365 or (b) a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and
1287 acknowledged by the United States Assistant Secretary-Indian Affairs as an Indian tribe within the
1288 meaning of federal law that has the authority to conduct gaming activities as a matter of claimed
1289 inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et

1290 *seq.*)

1291 *F. An eligible host city shall submit its preferred operator and owner based on the criteria in this*
 1292 *section to the Department for a pre-certification of their qualifications to conduct casino gaming in the*
 1293 *Commonwealth. An eligible host city shall also submit any written or electronic documentation*
 1294 *considered as part of the criteria in subsection C, including any memorandum of understanding,*
 1295 *incentives, development agreements, land purchase agreements, or local infrastructure agreements. Such*
 1296 *pre-certification shall include a review of their financial status and ability to operate and properly*
 1297 *support ongoing operations in an eligible host city, as well as current casino operations in other states*
 1298 *and territories. The Department shall also consider as part of its review the best financial interests of*
 1299 *the Commonwealth. The Department shall conduct such review and make a determination on*
 1300 *pre-certification within 60 days of receipt of the request by the eligible host city. An eligible host city*
 1301 *and preferred operator and owner shall fully cooperate with all necessary requests by the Department in*
 1302 *that regard.*

1303 *Article 3.*

1304 *Licenses.*

1305 **§ 58.1-4108. Operator's license required; capital investment; transferability.**

1306 *A. No person shall operate a casino gaming establishment unless he has obtained an operator's*
 1307 *license issued by the Department in accordance with the provisions of this chapter and the regulations*
 1308 *promulgated hereunder.*

1309 *B. To obtain an operator's license issued under the provisions of this chapter, the applicant shall*
 1310 *make a capital investment of at least \$250 million in a casino gaming establishment, including the value*
 1311 *of the real property upon which such establishment is located and all furnishings, fixtures, and other*
 1312 *improvements.*

1313 *C. A license issued under the provisions of this chapter shall be transferable, provided that the*
 1314 *Department has approved the proposed transfer and all licensure requirements are satisfied at the time*
 1315 *the transfer takes effect.*

1316 *D. A nonrefundable fee of \$5 million shall be paid by the applicant to the Department upon issuance*
 1317 *of a license to operate a casino gaming establishment.*

1318 *E. No person issued a license pursuant to this chapter shall be precluded from obtaining a license*
 1319 *for online sports betting pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.) or any subsequently*
 1320 *created online sports betting license.*

1321 **§ 58.1-4109. Application for operator's license; certification of preferred casino gaming operator by**
 1322 **eligible host city; penalty.**

1323 *A. Prior to accepting any application for a license to operate a casino gaming establishment, the*
 1324 *Board shall request from each eligible host city the certified preferred casino gaming operator. Each*
 1325 *eligible host city shall submit such certification within 60 days of the Board's request. The Department*
 1326 *shall assist a city described in subdivision A 5 of § 58.1-4107, in evaluating the technical merits of any*
 1327 *proposal submitted pursuant to this section, provided that selection of the preferred casino operator*
 1328 *shall be at the city's sole discretion.*

1329 *B. Any preferred casino gaming operator desiring to operate a casino gaming establishment shall file*
 1330 *with the Department an application for an operator's license. Such application shall be filed at the*
 1331 *place prescribed by the Department and shall be in such form and contain such information as*
 1332 *prescribed by the Department, including but not limited to the following:*

1333 *1. The name and address of such person; if a corporation, the state of its incorporation, the full*
 1334 *name and address of each officer and director thereof, and, if a foreign corporation, whether it is*
 1335 *qualified to do business in the Commonwealth; if a partnership or joint venture, the name and address*
 1336 *of each general partner thereof; if a limited liability company, the name and address of each manager*
 1337 *thereof; or if another entity, the name and address of each person performing duties similar to those of*
 1338 *officers, directors, and general partners;*

1339 *2. The name and address of each principal and of each person who has contracted to become a*
 1340 *principal of the applicant, including providing management services with respect to any part of gaming*
 1341 *operations; the nature and cost of such principal's interest; and the name and address of each person*
 1342 *who has agreed to lend money to the applicant;*

1343 *3. Such information as the Department considers appropriate regarding the character, background,*
 1344 *and responsibility of the applicant and the principals, officers, and directors of the applicant;*

1345 *4. A description of the casino gaming establishment in which such gaming operations are to be*
 1346 *conducted, the city where such casino gaming establishment will be located, and the applicant's capital*
 1347 *investment plan for the site. The Board shall require such information about a casino gaming*
 1348 *establishment and its location as it deems necessary and appropriate to determine whether it complies*
 1349 *with the minimum standards provided in this chapter and whether gaming operations at such location*
 1350 *will be in furtherance of the purposes of this chapter;*

1351 *5. Such information relating to the financial responsibility of the applicant and the applicant's ability*

- 1352 to perform under its license as the Department considers appropriate;
- 1353 6. If any of the facilities necessary for the conduct of gaming operations are to be leased, the terms
- 1354 of such lease;
- 1355 7. Evidence of compliance by the applicant with the economic development and land use plans and
- 1356 design review criteria of the local governing body of the city in which the casino gaming establishment
- 1357 is proposed to be located, including certification that the project complies with all applicable land use
- 1358 ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2;
- 1359 8. Such information necessary to enable the Department to review the application based upon the
- 1360 best financial interests of the Commonwealth; and
- 1361 9. Any other information that the Department in its discretion considers appropriate.
- 1362 C. A nonrefundable application fee of \$50,000 shall be paid at the time of filing to defray the costs
- 1363 associated with the background investigation conducted for the Department. If the reasonable costs of
- 1364 the investigation exceed the application fee and the reason for the costs exceeding the application fee is
- 1365 the fault of the applicant, such applicant shall pay the additional amount to the Department. The Board
- 1366 may establish regulations calculating the reasonable costs to the Department in performing its functions
- 1367 under this chapter and allocating such costs to the applicants for licensure at the time of filing.
- 1368 D. Any license application from an Indian tribe as described in subsection D of § 58.1-4107 shall
- 1369 certify that the material terms of the relevant development agreements between the Indian tribe and any
- 1370 development partner have been determined in the opinion of the Office of General Counsel of the
- 1371 National Indian Gaming Commission after review not to deprive the Indian tribe of the sole propriety
- 1372 interest in the gaming operations for purposes of federal Indian gaming law.
- 1373 E. Any application filed hereunder shall be verified by the oath or affirmation of the applicant. Any
- 1374 person who knowingly makes a false statement on an application is guilty of a Class 4 felony.
- 1375 F. The licensed operator shall be the person primarily responsible for the gaming operations under
- 1376 his license and compliance of such operations with the provisions of this chapter.
- 1377 **§ 58.1-4110. Issuance of operator's license to preferred casino gaming operator; standards for**
- 1378 **licensure; temporary licenses.**
- 1379 A. If a preferred casino gaming operator, as certified by the applicable eligible host city, submits an
- 1380 application that meets the standards for licensure set forth in this article, the Department shall issue an
- 1381 operator's license to such preferred casino gaming operator. The Department shall not consider an
- 1382 application from any applicant that has not been certified as a preferred casino gaming operator by an
- 1383 eligible host city.
- 1384 B. The Department may issue an operator's license to a person only if it finds that:
- 1385 1. The applicant submits a plan for addressing responsible gaming issues, including the goals of the
- 1386 plan, procedures, and deadlines for implementation of the plan;
- 1387 2. The casino gaming establishment the applicant proposes to use on a permanent basis is or will be
- 1388 appropriate for gaming operations consistent with the purposes of this chapter;
- 1389 3. The city where the casino gaming establishment will be located certifies that the proposed project
- 1390 complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title
- 1391 15.2;
- 1392 4. Any required local infrastructure or site improvements, including necessary sewerage, water,
- 1393 drainage facilities, or traffic flow, are to be paid exclusively by the applicant without state or local
- 1394 financial assistance;
- 1395 5. If the applicant is an entity, its securities are fully paid and, in the case of stock, nonassessable
- 1396 and have been subscribed and will be paid for only in cash or property to the exclusion of past
- 1397 services;
- 1398 6. All principals meet the criteria of this subsection and have submitted to the jurisdiction of the
- 1399 Virginia courts, and all nonresident principals have designated the Director as their agent for receipt of
- 1400 process;
- 1401 7. If the applicant is an entity, it has the right to purchase at fair market value the securities of, and
- 1402 require the resignation of, any person who is or becomes disqualified under subsection C;
- 1403 8. The applicant meets any other criteria established by this chapter and the Department's
- 1404 regulations for the granting of an operator's license;
- 1405 9. The applicant is qualified to do business in Virginia or is subject to the jurisdiction of the courts
- 1406 of the Commonwealth; and
- 1407 10. The applicant has not previously been denied a license pursuant to subsection C.
- 1408 C. The Department shall deny a license to an applicant if it finds that for any reason the issuance of
- 1409 a license to the applicant would reflect adversely on the honesty and integrity of the casino gaming
- 1410 industry in the Commonwealth or that the applicant, or any officer, principal, manager, or director of
- 1411 the applicant:
- 1412 1. Is or has been guilty of any illegal act, conduct, or practice in connection with gaming operations

1413 *in this or any other state or has been convicted of a felony;*

1414 2. *Has had a license or permit to hold or conduct a gaming operation denied for cause, suspended,*
1415 *or revoked, in this or any other state or country, unless the license or permit was subsequently granted*
1416 *or reinstated;*

1417 3. *Has at any time during the previous five years knowingly failed to comply with the provisions of*
1418 *this chapter or any Department regulation;*

1419 4. *Has knowingly made a false statement of material fact to the Department or has deliberately*
1420 *failed to disclose any information requested by the Department;*

1421 5. *Has defaulted in the payment of any obligation or debt due to the Commonwealth and has not*
1422 *cured such default; or*

1423 6. *Has operated or caused to be operated a casino gaming establishment for which a license is*
1424 *required under this chapter without obtaining such license.*

1425 D. *The Department shall make a determination regarding whether to issue the operator's license*
1426 *within 90 days of the receipt of a completed application.*

1427 E. *The Department shall be limited to the issuance of one operator's license for each eligible host*
1428 *city.*

1429 F. *The Department may issue a one-year temporary gaming license if it finds that a preferred casino*
1430 *operator has submitted as a part of its application a construction schedule for a casino gaming*
1431 *establishment that has been approved by the eligible host city and the Department. The Department may*
1432 *renew a temporary gaming license for an additional year if it determines that the preferred casino*
1433 *operator has made a good faith effort to comply with the approved construction schedule.*

1434 **§ 58.1-4111. Duration and form of operator's license; bond.**

1435 A. *A license issued under this chapter shall be for the period set by the Department regulations,*
1436 *which shall be no more than 10 years, but shall be reviewed no less frequently than annually to*
1437 *determine compliance with this chapter and Department regulations. Such annual review shall include a*
1438 *certification by the eligible host city of the status of the operator's compliance with local ordinances and*
1439 *regulations. If the certification states that the operator is not in compliance, the Department shall*
1440 *require the operator to submit a plan of compliance, corrective action, or request for variance.*

1441 B. *The Board shall establish by regulation the criteria and procedures for license renewal and for*
1442 *amending licenses to conform to changes in a licensee's gaming operations. Such regulations shall*
1443 *require the operator to submit to the Board any updates or revisions to the capital investment plan*
1444 *provided with the initial license application pursuant to subdivision B 4 of § 58.1-4109. Renewal shall*
1445 *not be unreasonably refused.*

1446 C. *The Department shall require a bond with surety acceptable to it, and in an amount determined*
1447 *by it, to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.*

1448 **§ 58.1-4112. Records to be kept; reports.**

1449 A. *A licensed operator shall keep his books and records so as to clearly indicate the total amount of*
1450 *gross receipts and adjusted gross receipts.*

1451 B. *The licensed operator shall furnish to the Department reports and information as the Department*
1452 *may require with respect to its activities on forms designated and supplied for such purpose by the*
1453 *Department.*

1454 **§ 58.1-4113. Audit or financial review of licensed gaming operations.**

1455 *Within 90 days after the end of each fiscal year, the licensed operator shall transmit to the*
1456 *Department a third party independent audit of the financial transactions and condition of the licensee's*
1457 *total operations. All audits required by this section shall conform to Board regulations.*

1458 **Article 4.**

1459 **Supplier's Permits.**

1460 **§ 58.1-4114. Supplier's permits; penalty.**

1461 A. *The Department may issue a supplier's permit to any person upon application and payment of a*
1462 *nonrefundable application fee set by the Department, a determination by the Department that the*
1463 *applicant is eligible for a supplier's permit, and payment of a \$5,000 initial permit fee. A supplier's*
1464 *permit shall be renewed annually at a fee to be determined by the Department, not to exceed \$5,000.*

1465 B. *The holder of a supplier's permit may sell or lease, or contract to sell or lease, casino gaming*
1466 *equipment and supplies, or provide management services, to any licensee involved in the ownership or*
1467 *management of gaming operations to the extent provided in the permit.*

1468 C. *Gaming equipment, devices, and supplies shall not be distributed unless such equipment, devices,*
1469 *and supplies conform to standards adopted by the Department.*

1470 D. *A person is ineligible to receive a supplier's permit if:*

1471 1. *The person has been convicted of a felony under the laws of the Commonwealth or any other state*
1472 *or of the United States;*

1473 2. *The person has submitted an application for a license under this chapter that contains false*
1474 *information;*

1475 3. The person is a Board member, employee of the Department, or a member of the immediate
1476 household of a Board member or Department employee;

1477 4. The person is an entity in which a person defined in subdivision 1, 2, or 3 is an officer, director,
1478 principal, or managerial employee;

1479 5. The firm or corporation employs a person who participates in the management or operation of
1480 casino gaming authorized under this chapter; or

1481 6. A prior permit issued to such person to own or operate casino gaming establishments or supply
1482 goods or services to a gaming operation under this chapter or any laws of any other jurisdiction has
1483 been revoked.

1484 E. Any person that supplies any casino gaming equipment, devices, or supplies to a licensed gaming
1485 operation or manages any operation, including a computerized network, of a casino gaming
1486 establishment shall first obtain a supplier's permit. A supplier shall furnish to the Department a list of
1487 all management services, equipment, devices, and supplies offered for sale or lease in connection with
1488 the games authorized under this chapter. A supplier shall keep books and records for the furnishing of
1489 casino gaming equipment, devices, and supplies to gaming operations separate and distinct from any
1490 other business that the supplier might operate. A supplier shall file a quarterly return with the
1491 Department listing all sales and leases for which a permit is required. A supplier shall permanently affix
1492 its name to all its equipment, devices, and supplies for gaming operations. Any supplier's equipment,
1493 devices, or supplies that are used by any person in an unauthorized gaming operation shall be forfeited
1494 to the Commonwealth.

1495 F. A licensed operator may operate its own equipment, devices, and supplies and may utilize casino
1496 gaming equipment, devices, and supplies at such locations as may be approved by the Department for
1497 the purpose of training enrollees in a school operated by the licensee to train persons who desire to
1498 become qualified for employment or promotion in gaming operations. The Board may promulgate
1499 regulations for the conduct of any such schools.

1500 G. Each holder of an operator's license under this chapter shall file an annual report with the
1501 Department listing its inventories of casino gaming equipment, devices, and supplies related to its
1502 operations in Virginia.

1503 H. Any person who knowingly makes a false statement on an application for a supplier's permit is
1504 guilty of a Class 4 felony.

1505 **§ 58.1-4115. Denial of permit final.**

1506 The denial of a supplier's permit by the Department shall be final unless appealed under
1507 § 58.1-4105. A permit may not be applied for again for a period of five years from the date of denial
1508 without the permission of the Department.

1509 Article 5.

1510 Suspension and Revocation of Licenses and Supplier's Permits; Acquisition of Interest in Licensee or Holder
1511 of Supplier's Permit.

1512 **§ 58.1-4116. Suspension or revocation of license or permit.**

1513 A. The Director may suspend, revoke, refuse to renew, or assess a civil penalty against the holder of
1514 a license or permit in a sum not to exceed \$100,000, after notice and a hearing. Such license or permit
1515 may, however, be temporarily suspended by the Director without prior notice, pending any prosecution,
1516 hearing, or investigation, whether by a third party or by the Director. A license may be suspended,
1517 revoked, or refused renewal by the Director for one or more of the following reasons:

1518 1. Failure to comply with, or violation of, any provision of this chapter or any regulation or
1519 condition of the Department;

1520 2. Failure to disclose facts during the application process that indicate that such license or permit
1521 should not have been issued;

1522 3. Conviction of a felony under the laws of the Commonwealth or any other state or of the United
1523 States subsequent to issuance of a license or permit;

1524 4. Failure to file any return or report, to keep any records, or to pay any fees or other charges
1525 required by this chapter;

1526 5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the
1527 integrity of gaming operations;

1528 6. A material change, since issuance of the license or permit, with respect to any matters required to
1529 be considered by the Director under this chapter; or

1530 7. Other factors established by Department regulation.

1531 B. Such action by the Director shall be final unless appealed in accordance with § 58.1-4105.
1532 Suspension or revocation of a license or permit for any violation shall not preclude criminal liability for
1533 such violation.

1534 **§ 58.1-4117. Acquisition of interest in licensee or permit holder.**

1535 The Department shall require any person desiring to become a principal of, or other investor in, any

1536 licensee or holder of a supplier's permit to apply to the Department for approval and may demand such
 1537 information of the applicant as it finds necessary. The Department shall consider such application
 1538 within 60 days of its receipt, and if in its judgment the acquisition by the applicant would be
 1539 detrimental to the public interest, to the honesty and integrity of gaming operations, or to its reputation,
 1540 the application shall be denied. All reasonable costs for review by the Department shall be borne by the
 1541 applicant.

1542 Article 6.
 1543 Service Permits.

1544 **§ 58.1-4118. Service permit required.**

1545 No person shall participate in any gaming operation as a casino gaming employee, concessionaire,
 1546 or employee thereof or other occupation the Department considers necessary to regulate in order to
 1547 ensure the integrity of casino gaming in the Commonwealth unless such person possesses a service
 1548 permit to perform such occupation issued by the Department and complies with the provisions of this
 1549 chapter and all Department regulations. A service permit issued under the provisions of this chapter
 1550 may be transferable upon approval of the Department.

1551 **§ 58.1-4119. Application for service permit.**

1552 A. Any person desiring to obtain a service permit as required by this chapter shall apply on a form
 1553 prescribed by the Department. The application shall be accompanied by a fee prescribed by the
 1554 Department.

1555 B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant.

1556 **§ 58.1-4120. Consideration of service permit application.**

1557 A. The Department shall promptly consider any application for a service permit and issue or deny
 1558 such service permit on the basis of the information in the application and all other information
 1559 provided, including any investigation it considers appropriate. If an application for a service permit is
 1560 approved, the Department shall issue a service permit, containing such information as the Department
 1561 considers appropriate. Such service permit shall be valid for one year. The Department shall establish
 1562 criteria and procedures for service permit renewal.

1563 B. The Department shall deny the application and refuse to issue the service permit, which denial
 1564 shall be final unless an appeal is taken under § 58.1-4105, if it finds that the issuance of such service
 1565 permit to such applicant would not be in the best interests of the Commonwealth or would reflect
 1566 negatively on the honesty and integrity of casino gaming in the Commonwealth or that the applicant:

1567 1. Has knowingly made a false statement of a material fact in the application or has deliberately
 1568 failed to disclose any information requested by the Department;

1569 2. Is or has been guilty of any corrupt or fraudulent practice or conduct in connection with gaming
 1570 operations in the Commonwealth or any other state;

1571 3. Has knowingly failed to comply with the provisions of this chapter or the regulations promulgated
 1572 hereunder;

1573 4. Has had a service permit to engage in activity related to casino gaming denied for cause,
 1574 suspended, or revoked in the Commonwealth or any other state, and such denial, suspension, or
 1575 revocation is still in effect;

1576 5. Is unqualified to perform the duties required for the service permit sought; or

1577 6. Has been convicted of a misdemeanor or felony involving unlawful conduct of wagering,
 1578 fraudulent use of a gaming credential, unlawful transmission of information, touting, bribery,
 1579 embezzlement, distribution or possession of drugs, or any crime considered by the Department to be
 1580 detrimental to the honesty and integrity of casino gaming in the Commonwealth.

1581 C. The Department may refuse to issue a service permit if for any reason it determines the granting
 1582 of such service permit is not consistent with the provisions of this chapter or its responsibilities or any
 1583 regulations promulgated by any other agency of the Commonwealth.

1584 **§ 58.1-4121. Suspension or revocation of service permit; civil penalty.**

1585 A. The Director may suspend, revoke, refuse to renew, or assess a civil penalty against the holder of
 1586 a service permit in a sum not to exceed \$10,000, after notice and a hearing. Such service permit may,
 1587 however, be temporarily suspended by the Director without prior notice, pending any prosecution,
 1588 hearing, or investigation, whether by a third party or by the Director. A service permit may be
 1589 suspended, revoked, or refused renewal by the Director for one or more of the following reasons:

1590 1. Failure to comply with, or violation of, any provision of this chapter, or any regulation or
 1591 condition of the Department;

1592 2. Failure to disclose facts during the application process that indicate that such service permit
 1593 should not have been issued;

1594 3. Conviction of a felony under the laws of the Commonwealth or any other state or of the United
 1595 States subsequent to issuance of a service permit;

1596 4. Failure to file any return or report, keep any record, or pay any fees or other charges required by
 1597 this chapter;

1598 5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the
1599 integrity of gaming operations;

1600 6. A material change, since issuance of the service permit, with respect to any matters required to be
1601 considered by the Director under this chapter; or

1602 7. Other factors established by Department regulation.

1603 B. Actions taken by the Director pursuant to this section shall be final unless appealed in
1604 accordance with § 58.1-4105. Suspension or revocation of a service permit for any violation shall not
1605 preclude criminal liability for such violation.

1606 Article 7.

1607 Conduct of Casino Gaming.

1608 § 58.1-4122. Conduct of casino gaming.

1609 A. Casino gaming may be conducted by licensed operators, subject to the following:

1610 1. Minimum and maximum wagers on games shall be set by the licensee.

1611 2. Agents of the Department, the Department of State Police, and the local law-enforcement and fire
1612 departments may enter any casino gaming establishment and inspect such facility at any time for the
1613 purpose of determining compliance with this chapter and other applicable fire prevention and safety
1614 laws.

1615 3. Employees of the Department shall have the right to be present in any facilities under the control
1616 of the licensee.

1617 4. Gaming equipment, devices, and supplies customarily used in conducting casino gaming shall be
1618 purchased or leased only from suppliers holding permits for such purpose under this chapter.

1619 5. Persons licensed under this chapter shall permit no form of wagering on games except as
1620 permitted by this chapter.

1621 6. Wagers may be received only from a person present at the licensed casino gaming establishment.
1622 No person present at such facility shall place or attempt to place a wager on behalf of another person
1623 who is not present at the facility.

1624 7. No person under age 21 shall be permitted to make a wager under this chapter or be present
1625 where casino gaming is being conducted.

1626 8. No person shall place or accept a wager on youth sports.

1627 9. No licensee or permit holder shall accept postdated checks in payment for participation in any
1628 gaming operation. No licensee or permit holder, or any person on the premises of a casino gaming
1629 establishment, shall extend lines of credit or accept any credit card or other electronic fund transfer in
1630 payment for participation in any gaming operation.

1631 B. Casino gaming wagers shall be conducted only with tokens, chips, or electronic cards purchased
1632 from a licensed casino gaming operator. Such tokens, chips, or electronic cards may be used only for
1633 the purpose of (i) making wagers on games or (ii) making a donation to a charitable entity granted
1634 tax-exempt status under § 501(c)(3) of the Internal Revenue Code, provided that the donated tokens,
1635 chips, or electronic cards are redeemed by the same charitable entity accepting the donation.

1636 Article 8.

1637 Local Referendum.

1638 § 58.1-4123. Local referendum required.

1639 A. The Department shall not grant any initial license to operate a gaming operation in an eligible
1640 host city until a referendum on the question of whether casino gaming shall be permitted in such city is
1641 approved by the voters of such city.

1642 B. The governing body of any city containing an eligible host city shall petition the court, by
1643 resolution, asking that a referendum be held on the question of whether casino gaming be permitted
1644 within the city. The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.)
1645 of Chapter 6 of Title 24.2, shall require the regular election officials of the county to open the polls and
1646 take the sense of the voters on the question as herein provided.

1647 C. The clerk of such court of record of such city shall publish notice of such election in a newspaper
1648 of general circulation in such city once a week for three consecutive weeks prior to such election.

1649 D. The regular election officers of such city shall open the polls at the various voting places in such
1650 city on the date specified in such order and conduct such election in the manner provided by law. The
1651 election shall be by ballot, which shall be prepared by the electoral board of the city and on which
1652 shall be printed the following question:

1653 "Shall casino gaming be permitted at a casino gaming establishment in _____ (name of
1654 city and location) as may be approved by the Virginia Lottery Board?

1655 [] Yes

1656 [] No"

1657 In the blank shall be inserted the name of the city in which such election is held and the proposed
1658 location of the casino gaming establishment. Any voter desiring to vote "Yes" shall mark in the square

1659 provided for such purpose immediately preceding the word "Yes," leaving the square immediately
 1660 preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark in the square provided
 1661 for such purpose immediately preceding the word "No," leaving the square immediately preceding the
 1662 word "Yes" unmarked.

1663 E. The ballots shall be counted, the returns made and canvassed as in other elections, and the
 1664 results certified by the electoral board to the court ordering such election. Thereupon, such court shall
 1665 enter an order proclaiming the results of such election and a duly certified copy of such order shall be
 1666 transmitted to the Department and to the governing body of such city.

1667 F. A subsequent local referendum shall be required if a license has not been granted by the Board
 1668 within five years of the court order proclaiming the results of the election.

1669 Article 9.
 1670 Taxation.

1671 **§ 58.1-4124. Tax rate on adjusted gross receipts.**

1672 A. A tax is imposed on the adjusted gross receipts of each licensed operator received from games
 1673 authorized under this chapter as follows:

1674 1. If a licensed operator has made capital investments of at least \$250 million, but less than \$350
 1675 million, the tax shall be imposed as follows: (i) on the first \$150 million of adjusted gross receipts of an
 1676 operator, a rate of 15 percent; (ii) on adjusted gross receipts of an operator that exceed \$150 million
 1677 but do not exceed \$300 million, a rate of 20 percent; and (iii) on any adjusted gross receipts of an
 1678 operator exceeding \$300 million, a rate of 28 percent.

1679 2. If a licensed operator has made capital investments of \$350 million or more, the tax shall be
 1680 imposed as follows: (i) on the first \$200 million of adjusted gross receipts of an operator, a rate of 15
 1681 percent; (ii) on adjusted gross receipts of an operator that exceed \$200 million but do not exceed \$400
 1682 million, a rate of 20 percent; and (iii) on any adjusted gross receipts of an operator exceeding \$400
 1683 million, a rate of 28 percent.

1684 B. All tax revenues collected pursuant to the provisions of this section shall accrue to the Gaming
 1685 Proceeds Fund and be allocated as provided in § 58.1-4125.

1686 C. The taxes imposed by this section shall be paid by the licensed operator to the Department no
 1687 later than the close of the business day following the day when the adjusted gross receipts were
 1688 received and shall be accompanied by forms and returns prescribed by the Board. Revenues collected
 1689 pursuant to this section shall be credited to the Gaming Proceeds Fund to be appropriated as set forth
 1690 in § 58.1-4125. The Department may suspend or revoke the license of an operator for willful failure to
 1691 submit the wagering tax payment or the return within the specified time.

1692 **§ 58.1-4125. Gaming Proceeds Fund.**

1693 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
 1694 Gaming Proceeds Fund, referred to in this section as "the Fund." The Fund shall be established on the
 1695 books of the Comptroller. All moneys required to be deposited into the Fund pursuant to this chapter
 1696 shall be paid into the state treasury and credited to the Fund. Any moneys remaining in the Fund,
 1697 including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall
 1698 remain in the Fund.

1699 B. Revenues from the Fund shall be appropriated by the General Assembly as follows:

1700 1. If collected at a casino gaming establishment the operator of which has made a capital investment
 1701 in such establishment of at least \$250 million but less than \$350 million, the following amounts shall be
 1702 appropriated to the city in which they were collected:

1703 a. An amount equal to a five percent tax on the first \$150 million of adjusted gross receipts;
 1704 b. An amount equal to a six percent tax on the adjusted gross receipts that exceed \$150 million but
 1705 do not exceed \$300 million; and

1706 c. An amount equal to a seven percent tax on the adjusted gross receipts that exceed \$300 million.

1707 2. If collected at a casino gaming establishment the operator of which has made a capital investment
 1708 in such establishment of \$350 million or more, the following amounts shall be appropriated to the city
 1709 in which they were collected:

1710 a. An amount equal to a five percent tax on the first \$200 million of adjusted gross receipts;

1711 b. An amount equal to a six percent tax on the adjusted gross receipts that exceed \$200 million but
 1712 do not exceed \$400 million; and

1713 c. An amount equal to a seven percent tax on the adjusted gross receipts that exceed \$400 million.

1714 3. For any casino gaming establishment operated by a Virginia Indian tribe recognized in House
 1715 Joint Resolution No. 54 (1983) and acknowledged by the United States Assistant Secretary of Indian
 1716 Affairs as an Indian tribe within the meaning of federal law that has the authority to conduct gaming
 1717 activities as a matter of claimed inherent authority or under the authority of the Indian Gaming
 1718 Regulatory Act (25 U.S.C. § 2701 et seq.), an amount equal to a tax of one percent on the adjusted
 1719 gross receipts of such establishment shall be deposited in the Virginia Indigenous People's Trust Fund
 1720 established pursuant to § 2.2-401.01.

1721 4. Eight-tenths of one percent of the Fund shall be appropriated to the Problem Gambling Treatment
 1722 and Support Fund established pursuant to § 37.2-314.1.

1723 5. Two-tenths of one percent of the Fund shall be appropriated to the Family and Children's Trust
 1724 Fund established pursuant to § 63.2-2100.

1725 6. Any remaining revenues in the Fund shall be appropriated annually as general fund revenues.

1726

Article 10.

1727

Prohibited Acts; Penalties.

1728

§ 58.1-4126. **Illegal operation; penalty.**

1729

A. No person shall:

1730

1. Operate casino gaming where wagering is used or to be used without a license issued by the
 1731 Department.

1732

2. Operate casino gaming where wagering is permitted other than in the manner specified by this
 1733 chapter.

1734

3. Offer, promise, or give anything of value or benefit to a person who is connected with a gaming
 1735 operation, including an officer or employee of a licensed operator or permit holder, pursuant to an
 1736 agreement or arrangement or with the intent that the promise or thing of value or benefit will influence
 1737 the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to
 1738 affect the outcome of a game, or to influence official action of a member of the Board, the Director, a
 1739 Department employee, or a local governing body.

1740

4. Solicit or knowingly accept a promise of anything of value or benefit while the person is
 1741 connected with a gaming operation, including an officer or employee of a licensed operator or permit
 1742 holder, pursuant to an understanding or arrangement or with the intent that the promise or thing of
 1743 value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a
 1744 game, or to influence official action of a member of the Board, the Director, a Department employee, or
 1745 a local governing body.

1746

5. Use or possess with the intent to use a device to assist in:

1747

a. Projecting the outcome of a game;

1748

b. Keeping track of the cards played;

1749

c. Analyzing the probability of the occurrence of an event relating to a game; or

1750

d. Analyzing the strategy for playing or betting to be used in a game except as permitted by
 1751 Department regulation.

1752

6. Cheat at gaming.

1753

7. Manufacture, sell, or distribute any card, chip, dice, game, or device that is intended to be used to
 1754 violate any provision of this chapter.

1755

8. Alter or misrepresent the outcome of a game on which wagers have been made after the outcome
 1756 is made sure but before it is revealed to the players.

1757

9. Place a bet after acquiring knowledge, not available to all players, of the outcome of the game
 1758 that is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a
 1759 bet contingent on that outcome.

1760

10. Claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or
 1761 from a game, with intent to defraud, without having made a wager contingent on winning the game or
 1762 claim, collect, or take an amount of money or thing of value of greater value than the amount won.

1763

11. Use counterfeit chips or tokens in a game.

1764

12. Possess any key or device designed for the purpose of opening, entering, or affecting the
 1765 operation of a game, drop box, or electronic or mechanical device connected with the game or for
 1766 removing coins, tokens, chips, or other contents of a game. This subdivision does not apply to a casino
 1767 gaming licensee or employee of a casino gaming licensee acting in furtherance of the employee's
 1768 employment.

1769

B. Any person convicted of a violation of this section is guilty of a Class 6 felony. In addition, any
 1770 person convicted of a violation of subsection A shall be barred for life from gaming operations under
 1771 the jurisdiction of the Board.

1772

§ 58.1-4127. **Fraudulent use of credential; penalty.**

1773

Any person other than the lawful holder thereof who has in his possession any credential, license, or
 1774 permit issued by the Department, or any person who has in his possession any forged or simulated
 1775 credential, license, or permit of the Department, and who uses such credential, license, or permit for the
 1776 purposes of misrepresentation, fraud, or touting, is guilty of a Class 4 felony.

1777

Any credential, license, or permit issued by the Department, if used by the holder thereof for a
 1778 purpose other than identification and in the performance of legitimate duties in a casino gaming
 1779 establishment, shall be automatically revoked.

1780

§ 58.1-4128. **Prohibition on persons under 21 years of age placing wagers and sports betting on
 1781 youth sports; penalty.**

1782 A. No person shall wager on or conduct any wagering on the outcome of a game pursuant to the
 1783 provisions of this chapter unless such person is 21 years of age or older. No person shall accept any
 1784 wager from a person under age 21.

1785 B. No person shall wager on or conduct any wagering on the outcome of a youth sports game. No
 1786 person shall accept any wager from a person on a youth sports game.

1787 C. Violation of this section is a Class 1 misdemeanor.

1788 **§ 58.1-4129. Conspiracies and attempts to commit violations; penalty.**

1789 A. Any person who conspires, confederates, or combines with another, either within or outside the
 1790 Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 6 felony.

1791 B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal
 1792 offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

1793 **§ 58.1-4130. Civil penalties.**

1794 Any person who conducts a gaming operation without first obtaining a license to do so, or who
 1795 continues to conduct such games after revocation of his license, in addition to other penalties provided,
 1796 shall be subject to a civil penalty assessed by the Board equal to the amount of gross receipts derived
 1797 from wagering on games, whether unauthorized or authorized, conducted on the day as well as
 1798 confiscation and forfeiture of all casino gaming equipment, devices, and supplies used in the conduct of
 1799 unauthorized games. Any civil penalties collected pursuant to this section shall be payable to the State
 1800 Treasurer for deposit to the general fund.

1801 **§ 59.1-364. Control of racing with pari-mutuel wagering.**

1802 A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the
 1803 Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent
 1804 with the health, safety and welfare of the people. The Virginia Racing Commission is vested with
 1805 control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to
 1806 prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to
 1807 maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent,
 1808 dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The
 1809 Virginia Racing Commission shall encourage participation by local individuals and businesses in those
 1810 activities associated with horse racing.

1811 B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or
 1812 wagering and entrance to any place where such racing or wagering is conducted is a privilege which
 1813 may be granted or denied by the Commission or its duly authorized representatives in its discretion in
 1814 order to effectuate the purposes set forth in this chapter.

1815 C. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility
 1816 licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview
 1817 of § 11-14.

1818 D. This section shall not apply to any sports betting or related activity that is lawful under Chapter
 1819 41 (§ 58.1-4100 et seq.) of Title 58.1.

1820 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
 1821 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
 1822 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
 1823 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**
 1824 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**
 1825 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be**
 1826 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**

1827 **3. That there is hereby established the Regional Improvement Commission (the Commission). The**
 1828 **membership of the Commission shall consist of one member appointed by the local governing body**
 1829 **of each jurisdiction composing the transportation district created pursuant to the Transportation**
 1830 **District Act of 1964 (§ 33.2-1900 et seq. of the Code of Virginia) that includes the eligible host city**
 1831 **described in subdivision A 3 of § 58.1-4107 of the Code of Virginia, as created by this act. Each**
 1832 **member shall be appointed to serve a two-year term. Notwithstanding the provisions of subdivision**
 1833 **B 1 of § 58.1-4125 of the Code of Virginia, as created by this act, for a casino gaming**
 1834 **establishment located in the eligible host city described in subdivision A 3 of § 58.1-4107 of the**
 1835 **Code of Virginia, as created by this act, such transfer, otherwise returned to the city where it was**
 1836 **collected, shall instead be made to the Regional Improvement Commission. The purpose of the**
 1837 **Commission shall be to (i) receive disbursements made to it; (ii) establish funding priorities for**
 1838 **member localities related to improvements in the areas of education, transportation, and public**
 1839 **safety; and (iii) make annual payments divided equally among the jurisdictions to fund the**
 1840 **established priorities as determined by the Commission.**

1841 **4. That the referendum required by § 58.1-4123 of the Code of Virginia, as created by this act, on**
 1842 **the question of whether casino gaming shall be permitted at a casino gaming establishment located**
 1843 **in the eligible host city in which such referendum is conducted, shall be conducted in each eligible**

1844 host city at the regular general election held on November 3, 2020.

1845 5. That the Virginia Racing Commission (the Commission) shall authorize an additional 600

1846 historical racing terminals each time a local referendum required by § 58.1-4123 of the Code of

1847 Virginia, as created by this act, is approved, provided that the total number of additional

1848 machines authorized in this enactment shall not exceed 2,500 statewide. The increase in historical

1849 racing terminals shall not apply with respect to any city where a significant infrastructure limited

1850 licensee, as defined in § 59.1-365 of the Code of Virginia, or the affiliate of such licensee is

1851 awarded a casino operator's license pursuant to this act. Notwithstanding the provisions of

1852 11VAC10-47-180 and subject to the local referendum requirements of § 59.1-391 of the Code of

1853 Virginia, for the machines specifically authorized in this enactment, the Commission shall

1854 authorize up to 1,800 machines in a satellite facility in a metropolitan area with a population in

1855 excess of 2.5 million located in a jurisdiction that has passed a referendum pursuant to the

1856 requirements of § 59.1-391 of the Code of Virginia prior to January 1, 2020, and 500 machines in

1857 a metropolitan area with a population in excess of 300,000, provided that no additional machines

1858 authorized in this enactment shall be located within 35 miles of an eligible host city as described in

1859 § 58.1-4107 of the Code of Virginia, as created by this act. No satellite facility shall be authorized

1860 in any locality that is included in the Regional Improvement Commission established in the third

1861 enactment of this act. Population determinations pursuant to this enactment shall be based on the

1862 2018 population estimates from the Weldon Cooper Center for Public Service of the University of

1863 Virginia. Except as provided herein, the Commission shall not be authorized to promulgate

1864 regulations to allow or grant a license to authorize historical horse racing terminals in excess of

1865 those permitted by the emergency regulations that became effective on October 5, 2018.

1866 6. That a contract between an eligible host city and its preferred casino gaming operator, as those

1867 terms are defined in § 58.1-4100 of the Code of Virginia, as created by this act, shall require the

1868 operator to agree that any contractor hired for construction on the site of the casino gaming

1869 establishment (the site) shall be required to (i) pay the local prevailing wage rate as determined by

1870 the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq.,

1871 as amended, to each laborer, workman, and mechanic the contractor employs on the site; (ii)

1872 participate in apprenticeship programs that have been certified by the Department of Labor and

1873 Industry or the U.S. Department of Labor; (iii) establish preferences for hiring residents of the

1874 eligible host city and adjacent localities, veterans, women, and minorities for work performed on

1875 the site; (iv) provide health insurance and retirement benefits for all full-time employees

1876 performing work on the site; and (v) require that the provisions of clauses (i) through (iv) be

1877 included in every subcontract, so that the provisions will be binding upon each subcontractor. The

1878 contract between an eligible host city and its preferred casino gaming operator shall also require

1879 that the operator agree to (a) pay any of its employees performing work on the site no less than a

1880 living wage equal to 125 percent of the federal poverty level; (b) establish preferences for hiring

1881 residents of the eligible host city and adjacent localities, veterans, women, and minorities for work

1882 performed on the site; (c) provide health insurance and retirement benefits for all full-time

1883 employees performing work on the site; and (d) require that any contract for services performed

1884 on the site, other than construction, contain the foregoing provisions (a), (b), and (c).